

PRIVATIZED PAROLE SUPERVISION:
SELLING SOCIAL CONTROL TO THE PUBLIC?

by

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B.A., Simon Fraser University, 1987

THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS
in the School
of
CRIMINOLOGY

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SIMON FRASER UNIVERSITY

December 1992

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Privatized Parole Supervision: Selling Social Control to the Public?

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ABSTRACT

The author argues that the state's ideological preferences, fiscal pressures and inherent social control functions direct public policy programming choices. The author reviews the relatively recent public policy shift to increase 'contracting out' of federal parole supervision, examining this phenomenon from a 'political-economic' perspective. It is argued that the move to privatize parole supervision is a function of an ideological preference to conform to tenets of monetarist economics. Attention is given to the particular issues associated with the social control functions of the state.

Canada, as well as other western industrialized nations, has experienced increasing budgetary deficits in recent decades. A move from 'Keynesian' to 'monetarist' policies has resulted in attempts to restore free-market forces and reduce the size of the federal civil service and the national debt. In addition to the fiscal considerations bearing upon public policy decisions, the federal government must balance competing interests to control deviant subgroups, maintain social harmony and preserve existing party rule.

Capitalizing on public concern over the national debt, the federal government has focused much of its energies on pursuing strategies that appear to reduce the size of the

public service while purportedly decreasing the direct outlay of expenditures on federal government programs. The federal correctional system, with a budget approaching one billion dollars, is an obvious target for the implementation of such strategies.

The thesis examines the history of growth of Canada's social welfare system and the resulting increase in Canada's national debt. The privatization argument is outlined, and the 'social control' and 'political economy' theoretical perspectives are discussed. 'Systems' data are presented to support the hypothesis that privatization strategies are being used within the federal correctional system to alleviate fiscal pressures on the state. The thesis concludes by proposing further research and discussing the effects of increased privatization in correctional matters.

ACKNOWLEDGEMENTS

I would like to express my gratitude to Dr. John Ekstedt and Dr. Raymond Corrado for their patient, yet critical support of this thesis.

In addition, my thanks are extended to my curious, often bewildered, usually understanding, always supportive cadre of friends and family who, despite my occasional apathy, continued to encourage my efforts to the end.

DEDICATION

To Angela Marie, for her patience and support

and

To the memory of Frank H. Epp, whose integrity and scholarship
continues to inspire...

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CHAPTER I
INTRODUCTION

Thesis Purpose

This thesis will explore current efforts by the federal government to privatize¹ a particular aspect of the Canadian correctional system: namely, parole supervision of federal offenders.² Primarily, this privatization has involved government subcontracting of parole supervision and related responsibilities to non-government agencies. This analysis will be conducted using a political economy perspective within the framework of a theory of 'social control'. A primary purpose of the thesis is to explore whether or not such a perspective enhances understanding of the factors contributing to decision-making within government.

This research will test the hypothesis that the Canadian government has attempted to apply some elements of monetarist economic theory in the downsizing of government through privatization, which is presented as a necessary response to the 'fiscal crisis' of the state (Ottawa 1986:11). This thesis recognizes that any study of 'control

1. "Privatize" - see discussion pp.4-7 this chapter
2. Federal offenders are those who have been sentenced to a term of imprisonment of two or more years whereas sentences of less than two years are under provincial jurisdiction. Sentences of federal offenders are "managed" by employees of the federal government and its agents, including contracted staff (parole supervisors).

issues' can not legitimately rest only on explanations of political economy (Lowman and Menzies 1986:95-6), and that ideology and stated intentions are significant factors when assessing public policy decision-making (Matthews 1979:110; Chan and Ericson 1981:8). It is important to understand, accordingly, the distinction between the state's public rationale for specific policy shifts, and factors more correctly determining the nature of such shifts.

While the state espouses 'principles of social equity' (Ottawa 1986:11) and the need to assert fiscal responsibility in light of the fiscal crisis³ as fundamental reasons forcing the move to allegedly less-expensive, community alternatives to incarceration, this thesis argues that the increasing resort to privatization is much more complex than a deterministic reaction to fiscal pressures.

This hypothesis will be demonstrated by reviewing the privatization of parole as a case study with attention to the particular issues associated with the social control functions of the state.

3. The Report to the Task Force on Program Review ("Neilsen Report": 1986) espouses principles of cost-effectiveness and efficiency in the context of finite resources as primary forces guiding review and rationalization of government programming.

It is proposed that specific policy shifts - in this case the dramatic rise in privatized federal parole supervision in the last decade - may be understood in the context of the ideological framework which underlies government decision-making. It is further proposed that such an ideological framework exists in the current Canadian context and that this framework includes an emphasis on monetarist economics.⁴ Monetarism advocates, among other things, reducing the size of the civil service, lessening the influence of the state in the market place and reducing the national debt as appropriate public policy strategies.

Theories of social control aid our understanding of these various factors on criminal justice practice. Theories of social control reflect one of the most recent emphases in the study of deviance and crime, and have attracted much academic attention. This has developed, in part, due to inadequacies and contradictions within other theories of crime and deviance. Kuhn (1970:147ff) suggests that as rival alternative ideas develop more explanatory power, a shift in allegiance from one 'way of seeing' to another occurs. It is as if "the professional community [is] suddenly transported to another planet where familiar objects are seen in a different light..." (Kuhn 1970:111). Social control theories

4. Monetarism is defined in Chapter III, pages 14-16.

have provided a new way of viewing public policy issues, especially those within the realm of criminal justice.

Once a research programme is established, particular cases examinable under the programme may support or detract from the overall validity of the research and related hypotheses. Accordingly, this thesis will focus on the privatization of parole supervision in Canada as an attempt to provide a case study. By doing so the author endeavors to add to the growing body of literature reviewing the social control theoretical perspective, thereby contributing to the elaboration (Wagner 1984:38-55) of this perspective. By seeking to demonstrate that a significant shift in federal government policy is reflected by the increase in privatized parole supervision, an additional research objective is addressed: that is, to increase understanding of federal government policy formulation, with particular attention to the influence of prevailing ideological assumptions on public policy development.

Definitions and Research Assumptions

Social control is a term used to describe a variety of organized responses to criminality and other forms of deviance or socially problematic behaviour. Depending upon one's orientation (sociology, anthropology, political science, etc) the term can denote more or less formal means of inducing conformity, varying degrees of coerciveness in

seeking conformity, and can include a wide variety of processes and methods through which society endeavors to cause individuals to conform to norms (Cohen 1985:2-3).⁵

Control of problematic sub-groups (criminals, insane) has evolved significantly in the last two centuries. Prior to the eighteenth century the state's involvement was decentralized, arbitrary and weak, with intervention focusing on behaviour. However, major changes have resulted in the state intensifying and extending its control over individuals, to the point where control is dispersed and often disguised. New forms of intervention are added to the old, closed institutions of segregation (Cohen 1985:16-17).

Given the assumptions of monetarism⁶, rationalization of budgetary expenditures on control functions (prison construction, policing, etc) is affected immensely by competing roles of the state to: a) foster economic growth and ensure that conditions for entrepreneurial risk-taking are relatively hospitable; and b) maintain peace and good order (O'Connor 1973). The tension between the three functions and the necessity to rationalize resources in the

5. Refer to Chapter II for further clarification of this concept.

6. Refer to Chapter III for an enhanced discussion of monetarism.

context of ideological preferences, political considerations and budgetary restraints is ongoing.

"Privatization" occurs when the profit motive or individual entrepreneurial goals become primary in the provision of services and goods production. Typically, privatization involves transferring services and production from direct government provision to privately owned companies. Accordingly, Dunleavy claims:

"By privatization, I mean strictly the permanent transferring of service or goods production activities previously carried out by public service bureaucracies to private firms or to other forms of non-public organization, such as voluntary groups." (1986:13)

Kent (1986:2) suggests that not only are functions transferred from government to the private sector, but that the costs of performing the functions should reflect the actual cost of providing the goods or services.

As Starr writes, privatization is reflected in public policy in at least four ways:

"(1) the cessation of public programs and disengagement of government from specific kinds of responsibilities; (2) sales of public assets, including public lands, public infrastructure, and public enterprises; (3) financing private provision of services - for example, through contracting out or voucher - instead of directly producing them; and (4) deregulating entry into activities, such as first-class mail, that were previously treated as a public monopoly" (1987:125).

These are the basic assumptions on which this study is premised. The extent of the practice of various forms of privatization and its use in the field of criminal justice requires an awareness of these types of influencing factors.

Privatization: The Criminal Justice Context

Abundant are instances of privatization specific to the criminal justice context in both the United States and Canada. In the United States, the private role in prison construction is growing, as demonstrated by the private construction of a \$20 million (US) 715-cell maximum security institution in Pennsylvania (Dilulio 1986:1).

Private industry in the United States is also active in providing secure facilities for the detention of illegal aliens (contracted to the US Immigration and Naturalization Service), adult male and female convicts, and juveniles (Woolley 1985:307-309). At the time of his writing, Dilulio (1986:1) notes the existence of about two dozen major correctional facilities under private ownership and operation.

Wollan (1984:113-124) outlines six functions of criminal justice (crime-oriented, criminal-oriented, case-oriented, convict-oriented, community-oriented, and victim-oriented functions), further enumerating 22 distinct tasks within those functions. The tasks are as diverse as the

investigation of crime, detention of criminals, prosecution and adjudication of cases, incapacitation and rehabilitation of convicts, protection, restitution and general deterrence within the community, and restoration (treatment) of victims. Wollan goes on to write that all 22 tasks should be considered for potential privatization.

In Canada, many of the tasks Wollan proposes as fair targets for privatization are, in fact, contracted - to varying extents - to private agencies. For instance, the federal Solicitor General commonly contracts specific prosecution cases to private law firms. Untold numbers of private agencies deal with the prevention and general deterrence of crime, protection of the community against criminal acts, and restitution between offender and offended. While no penitentiaries in Canada are run by non-government agencies, construction and certain maintenance and repair functions are routinely contracted to private firms. These functions include (but are certainly not restricted to) refuse disposal, installation, maintenance and repair of mechanical, electrical and other operating systems, instruction of inmates in "life skills", adult basic education, university courses, and supervision of inmates and parolees when in the community. Increasingly, private agencies are being consulted to perform ongoing tasks necessary for the functioning of the Canadian criminal

justice system. This trend continues to the late 1980's, without any apparent reversal (Table 6).

It is relevant to note here that many of the criticisms of privatization that emerge from the literature reviewed (see Chapter IV) deal specifically with privatization in the criminal justice context, and are not equally applicable in other contexts. Care must be taken not to confuse the criticisms of privatization in criminal justice with other areas of governmental influence.

The Research Method

The development of this thesis is borne of personal experience and an interest in decisions of public policy. The author has work experience in certain aspects of the Canadian criminal justice system (corrections, parole), and has observed that significant policy shifts are occurring within the Correctional Service of Canada. Particularly of interest is the degree of non-government participation in some areas of corrections (facilities' services, parole, inmate after-care and others). Therefore, a decision to combine knowledge of a specific policy shift within corrections (increased privatization in federal parole supervision) with an analysis of a theoretical perspective on public policy decision-making seemed appropriate. Once the data is married with a theoretical perspective, the concepts of privatization, public policy and parole

supervision provide an interesting and informative subject for analysis.

The literature review concentrates on public policy research, especially that concerned with privatization, and writings on theories of social control and political economy. As is evident in subsequent chapters, critical revisionist historians and their detractors provide substantial theoretical input into this thesis, as do authors debating the privatization issue. This literature is commonly available in local university libraries, although some documents have been obtained from other universities across Canada and the United States.

Requests were made of several prominent criminal justice advocacy groups for data to determine the degree of federal funding in the area of parole supervision at the level of the consumer agency. No consistent, timely, annual statistics were available on a national or provincial basis from these agencies. Initial attempts at securing data from a few localized offices also met with no success. The author was referred, most often, back to the federal government (Criminal Centre for Justice Statistics, "Adult Correctional Services in Canada" publications, and other government sources) for statistical information.

Therefore, official statistical information collected by federal government sources provides the primary basis for data analysis in this thesis. Statistics Canada, Canadian Centre for Criminal Justice Statistics, Correctional Service of Canada, and a few independent sources supplied all the statistical information necessary for analysis. While much of this data is available in public libraries and local universities, it was also necessary to canvass the national parliamentary library, other universities across Canada (interlibrary loans) and the Pacific Region Headquarters of the Correctional Service of Canada in order to complete the search for data.

Limitations of Thesis

This thesis has general applicability to a variety of criminal justice contexts, including provincial probation, electronic monitoring and other "alternative" programs, prison services, and deinstitutionalization, among others. However, the data included for analysis in this thesis will focus on federal parole in Canada. Obtainable data is more uniform, and this research flows from a specific interest in this aspect of criminal justice administration.

Data on the extent and practice of privatization in Canada was sought. It quickly became clear that very little independent data is available, and that any analysis of federal funding rationalization would have to rely on

"systems" data (government-collated and distributed). Accordingly, the extensive data on parole legislation, parole supervision, and National Parole Board decision-making is almost exclusively "systems" data.

Use of systems data is problematic as it is imprecise with respect to the particular rationalization of Community Assessments Parole Supervision (C.A.P.S.) funding by receiving agencies. As noted in Chapter VI, C.A.P.S. block funding usually incorporates funding for parole supervision as well as other services under contract. Therefore, the monies specifically allocated to parole supervision is not easily determined, and varies widely between contracts.

Unfortunately, individual provincial branches of non-government agencies (Salvation Army, John Howard Society, etc) are unable to provide a cohesive breakdown of their respective expenditures. This not only limits the accuracy of comparisons within a time-series, but also prevents independent correlation of government estimates of privatization expenditure data.

Limited data sources also restricts the time frame of this analysis to the 1980's, although there is no precise start or end date for the data. Data from earlier years is unavailable in any uniform or meaningful fashion from either government or private sources, even though privatization

contracts were administered well before 1980. While this makes a longer period of analysis impossible, reasonable hypotheses and interpretations can be made using the data at hand. An additional reason for limiting the time series of this data is the fluctuating nature of policy making in the dynamic area of corrections. Legislative changes and shifts in policy confuse analyses of the effects of these policies. Therefore, the data and analysis for this thesis includes up to the end of the last decade.

Organization of the Thesis

This chapter has introduced key definitions and research assumptions, reviewed research methodology, presented a brief review of privatization in Canadian criminal justice and discussed limitations of the thesis.

Chapters II and III contain the theoretical component. Social control theory literature will be reviewed in Chapter II, highlighting especially the works of Rothman (1971), Scull (1977), Foucault (1977) and Cohen (1985). This literature places the function of state control over offenders in a theoretical framework. From this framework an analysis of privatized parole supervision in the context of monetarist economic principles can be understood.

Theories of political economy and criticisms of the fiscal crisis argument are reviewed in Chapter III, focusing

on O'Connor's (1973) perspective. Competing roles of the state are discussed, as are the Keynesian and monetarist formulations of economic policy. The chapter concludes by presenting an historical review of Canadian social policy and the accompanying effect on economic developments in the last 50 years.

Chapter IV presents the privatization debate in general, discussing the pros and cons of the economic, philosophical and rational, legal and constitutional arguments.

In Chapter V a review of the structure of the Correctional Service of Canada's Parole Service, its role within the larger criminal justice process, relevant parole legislation and the current state of parole service delivery in Canada is presented.

Concluding this thesis is Chapter VI, which presents data on the extent of parole supervision contracts, per diem rates, the extent of service provided by private agencies, criminal justice budgetary expenditures over time, and other statistics concerning the comparison between private and public work forces. Conclusions arising from an analysis of the data follows. The implications of contracted parole supervision in the correctional sphere are reviewed, as is the future of federally-provided parole supervision.

Finally, the Appendix provides an history of parole, emphasizing the influence of the Irish, English, Australian and United States experiences on Canada's parole system.

CHAPTER II

THEORIES OF SOCIAL CONTROL

Introduction

Although the development of a notion of 'social control' dates to the early part of this century, contemporary 'social control' theory is generally acknowledged to be in its early years. Melossi (1987:28) notes that Edward Ross introduced the term 'social control' into American sociological vocabulary in 1901, albeit accompanied by an entirely different definition than is utilized today. Later Talcott Parsons adapted the term, using it to denote a "reequilibrating mechanism of social stability" (Melossi 1987:35). Social control was redefined by Parsons "as a response to deviance...[by] a unitary, normative structure" (Melossi 1987:35-6).

The transformation to contemporary notions of social control have rendered unfamiliar earlier formulations by the same name. In fact, early sociologists ignored issues germane to current social control theory: the relationship of political and economic factors; conflict over norms; the objectives of control, and the state (Lowman, Menzies, Palys 1987:3). Lowman et al writes, "in its earliest incarnations ...social control was virtually synonymous with socialization; it was conceptualized as operating at the level of face-to-face interaction (or, less frequently,

between individuals and formal institutions)" (1987:3). Thus, early theorists writing on social control failed to address the coercive elements of the control concept, concentrating instead on micro-level interactions between an individual and his or her peers, family members, school teachers and other role models. Characteristic of this school are the writings of Thomas and Znaniecki (1920), Hatt and Reiss (1951), Nye (1958), Hirschi (1969) and others whose works highlighted the influences of interpersonal relationships on the control of individuals.

As early as 1938, however, in Punishment and the Social Structure, Rusche and Kirchheimer attempted to reveal underlying transformations of the social structure, associating specific punishments with particular modalities of production. Their analysis of institutionalized coercion, however atypical it was at the time, is a precursor to more recent authorship in the same genre.

Current social control theory owes a great debt to recent revisionist historians, whose insightful albeit unorthodox analyses of the birth and development of the major institutions of social control (almshouses, asylums, and penitentiaries) spawned a flurry of related articles and books. Typically considered the key critical historical revisionist accounts are David Rothman's The Discovery of the Asylum (1971), Michel Foucault's Discipline and Punish

(1977), Michael Ignatieff's A Just Measure of Pain (1978), and The Prison and the Factory (1981), by Dario Melossi and Massimo Pavarini.

Particularly in the writings of Rothman (1971) and other revisionist historians, it has become evident that the ideals of the earliest advocates of 'institutions as reformatories' were not realized. Yet the structures and programs instituted to achieve the desired reforms persisted and expanded. The dialectical analyses of these early developments explained the persistence and expansion of the early workhouses, asylums and penitentiaries in terms of their utility for the state in its efforts to control deviant and dependent sub-groups within a population. The chronicles of the historical evolution of social control form the basis for contemporary theorists' analyses of current control systems.

In addition to these revisionist historical analyses, other authors have produced revelatory works on the rise of the welfare state, the 'political-economy', the 'fiscal crisis' of western capitalist states, and the symbiotic relationship between law, the state and social policy. The Marxist perspective and influences of these later writings will become apparent when the theory of social control is delineated below. Analyses of exploitation, legitimation, capital accumulation, control, relationships between the law

and the state, 'fiscal crises', fiscal and monetary policies, and other issues central to social control theory owe obvious debts to Marxist theory.

The central tenets of social control theory are outlined below. For the purposes of this thesis, this is intended to place the increasing practice of privatizing federal parole supervision in a theoretical context and allow the reader to understand more fully the fundamental shift in the provision of criminal justice services in this country. Social control theories rebel against the popular notions that changes in correctional policy merely reflect the state's desire to more humanely deal with offenders, or are rooted in 'reform' ideals, or are an inevitable response to existing fiscal pressures. Instead, this theoretical framework points to a larger, grand scheme of state control over deviant sub-groups: a scheme which is rooted in the domination and control of problematic populations.

Definitions

Cohen suggests that social control has "become a Mickey Mouse concept, used to include all social processes ranging from infant socialization to public execution, all social policies whether called health, education or welfare" (1983:101-2). According to Cohen, the object of social control theorists should be...

"...organized responses to crime, deviance and allied forms of deviant and/or socially problematic behaviour which are actually conceived of as such, whether in the reactive sense (after the putative act has taken place or the actor been identified) or in the proactive sense (to prevent the act). These responses may be directly from the state or from more autonomous professional agents in, say, social work and psychiatry. Their goals may be as specific as individual punishment and treatment or as diffuse as 'crime prevention', 'public safety', and 'community mental health'" (1985:3).

The range of responses, then, according to Cohen's definition, is enormous: individual responses could be considered at times pervasive and insidious.

However, the control of problematic sub-groups is only one of three functions the state is considered responsible for (Gordon 1987). O'Connor writes that the capitalistic state must try to fulfill the two additional functions of: a) accumulation, whereby the state must foster or attempt to create the conditions in which economic growth is possible; and b) legitimation, whereby the state must try to maintain or attempt to create the conditions necessary for social harmony (1973:6) and thereby legitimize existing state rule (Gamble and Walton 1976:31).

The function of 'control' has been implicitly assumed to be the responsibility of the political state even as early as the 1700's, when John Locke penned the notion of a social contract in the Second Treatise of Government (Locke 1972:396). Many states have since enshrined rights such as

life, liberty, and security of the person in their respective constitutions. Coercive control over individuals subject to a constitution is implicit within such a 'social contract.'

The control function has assumed different forms even within capitalist states. The dominant control systems we have become so familiar with - mental health and criminal justice - are relatively recent innovations. Rothman (1971:36) suggests asylums, the precursor to modern mental health institutions, emerged in Jacksonian America around the end of the eighteenth century. Prior to the 1800's, deviants, misfits and otherwise needy individuals were absorbed and maintained by charitable and municipal relief.

Likewise with criminals. Community sanctions such as fines, floggings, public display and humiliation in stocks, and occasionally the gallows were used to punish criminals (Rothman 1971:46-50). Institutional measures of discipline were all but absent until the nineteenth century.

Criminals, social dependents, and the mentally ill, it was thought, had become so because of "fundamental defects of the system, from mistaken economic, political and intellectual practices to grave errors in school and family training" (Rothman 1971:125). Realization of this prompted "a pre-Durkheimian version of anomie theory [which] gained

acceptance among reformers: deviants were seen as the products of an anomic social order, and attempts to control or change them came to involve segregating them away from the corrupting influences of the open society" (Cohen 1985:19). The use of prisons, workhouses and asylums as short-term, emergency facilities of last resort for extremely burdensome cases lasted until the mid-1800's.

However, revisionist historians suggest that a number of factors converged in the late nineteenth century to effectively transform the whole mandate and programming nature of the institutions. Larger proportions of hardened criminals and chronically insane (Rothman 1971:239), greater numbers of lower-class, immigrants (1971:254), overcrowding and inefficient institutional design only exacerbated problems (1971:242-7). In addition to physical problems, institutional officials adopted an attitude of complacency as reform ideals bore no fruit (Rothman 1971:245-6). The philosophical shift from rehabilitation to custodianship adopted a self-reinforcing quality, and by the twentieth century the purely custodial function of the institutions was generally accepted. The custody mandate evolved out of a reform ideal, and secured legitimation despite its nature.

As Cohen writes, "none of the early promises had been realized but the continuing story was 'legitimation despite failure.' The profound criticisms made no difference - the

institutions were kept going because of their functionalism and the enduring power of the rhetoric of benevolence" (1985:20).

A somewhat different analysis of the reasons for the development of the prison in colonial America comes from Andrew Scull. Scull (1977:19-20) agrees with Rothman that prior to the emergence of the penitentiary, deviant behaviour was sanctioned informally and within the local community. Scull diverges, though, in his analysis of the move to institutionalization. He suggests the transition to institutionalized incarceration of criminal offenders "can be more plausibly tied to the growth of the capitalist market system and to its impact on economic and social relationships" (1977:24).

According to Scull, the economic distinctions brought about by the emergence of the capitalist market system resulted in a reduction of the sense of social obligation to the poor, and "strained the family-based system of relief, which had been utilized in the colonies for dependent, neglected, and deviant individuals" (Ekstedt and Griffiths 1984:27).

In Scull's words, "the growth of a single national market and the rise of allegiance to the central political authority to a position of overriding importance undermined

the rationale of a locally based response to deviance... [T]hese factors contributed...to the development of a state-sponsored system of segregative control (1977:32-3).

Foucault, "seeking to illuminate 'the genealogy of power'", interpreted the development of new institutionalized forms of discipline as simply new forms of the exercise of power (Cohen and Scull 1983:3). Accompanying the emergence of the human sciences was the idea that the social domain could become a target for "rational social policies and political intervention" (Smart 1983:63). Prior to the development of formal institutions of discipline, the body was the focus of public forms of discipline, including torture (1983:67). But soon this focus changed: the body ceased to be the direct object of punishment, and instead the 'knowable individual', the soul, absorbed this focus (Smart 1983:68). The control of individuals now became the principal object of discipline, and the birth of the prison became the new 'technology of power' which effected that end (1983:68).

The three perspectives summarized above are somewhat representative of the diverse arguments used to explain the emergence of the newest form of social control: large-scale, state-run penal facilities. Rothman's (1971) liberal-pluralist perspective, Foucault's (1977) 'power-knowledge' spiral, and Scull's (1977) radical-elitist formulation all

suggest, however, that regardless of the reasons behind the emergence of prisons and mental institutions, their maintenance was, once established, insured.

In Visions of Social Control, Stanley Cohen traces the transformation in the treatment of problematic sub-groups in the last three centuries. Adopting a materialist politico-economical stance, Cohen suggests that the 'Great Incarcerations' of the nineteenth century - thieves into prisons, lunatics into asylums, conscripts into barracks, workers into factories, children into school - are to be seen as part of a grand design (1985:25).

Specifically, four nineteenth century transformations are described: 1) centralized state control of deviants and the development of a rationalized and bureaucratic apparatus for the control and punishment of crime; the care or cure of other types of deviants; 2) classification of deviant and dependant groups into categories, each with separate knowledge systems, expertise, and professionals; 3) increased segregation of deviants into 'asylums', or closed, purpose-built institutions, and the emergence of the penitentiary as the dominant instrument for changing undesirable behaviour and the favoured form of punishment; and 4) a change in the focus of punishment: the mind replaces the body as the object of penal repression (Cohen 1985:13-14, 32).

Cohen, supported by Rusche and Kirchheimer (1938), Melossi and Pavarini (1981), Ignatieff (1978), and Foucault (1977), states clearly that the underlying, unstated reason for the transformations noted above is the control over "recalcitrant members of the working class" these changes afforded the emerging capitalist order (1985:22). Cohen accordingly rejects any notion of correctional change as 'reform' or 'good intentions gone awry':

"Rather, everything has occurred as ordained by the needs of the capitalist social order. Ideals and ideologies cannot much change the story. Stated intentions are assumed a priori to conceal the real interests and motives behind the system. They constitute a facade to make acceptable the exercise of otherwise unacceptable power, domination or class interests which, in turn, are the product of particular politico-economic imperatives" (Cohen 1985:22).

"If prisons, asylums, and 'reformatories', and the activities of those running them, did not transform their inmates into upright citizens, they did at least get rid of troublesome people...[T]hey remained a convenient way to get rid of inconvenient people" (Scull 1977:33).

By the end of the nineteenth century, prisons were flourishing in North America. And, although not as quick as the United States in building penal institutions, soon similar developments took place in Canada (Ekstedt and Griffiths 1984:28). By Canadian Confederation, three

provincial institutions existed, and four more prisons were built the next decade.

Prison development proceeded more or less unabated until the end of the second World War when emphasis on less expensive, community-based treatment alternatives began to take place. From this era probation and parole as social control options evolved (Ekstedt and Griffiths 1984:54-58).

The focus of this thesis is on one of the community supervision options which emerged in the mid-20th century: namely, parole (see Appendix for a history of parole). Generally, the rationalization of state expenditures on criminal justice, 'welfare state' programs, and other less obvious 'control' functions are analyzed from the point of view of the political economy of social control. Although one object of this thesis is to demonstrate the efficacy of this model on the practice of privatized parole supervision, such an analysis also serves to gain a general understanding of the undercurrents directing government funding rationalization and decision-making. The following chapter reviews theories of political economy and applies the concept to Canadian public policy.

CHAPTER III

THEORIES OF POLITICAL ECONOMY

Introduction

The previous chapter presented theories of social control and outlined the historical development of current understandings of the term. It is also important to be cognizant of theoretical notions of political economy. Together the concepts of social control and political economy enable the reader to understand more completely the rationale behind certain privatization efforts in Canada. While the concept of social control places all correctional policy within the rubric of purposeful, coercive activity, concepts of political economy assist in clarifying the rationale behind specific policy shifts, in this case privatization.

It is important to note here that the 'fiscal crisis' argument is used by government as a primary rationale for its use of criminal sanctions which are less expensive than incarceration. As noted in the introductory chapter, however, to focus solely on economic determinants of public policy shifts is simplistic, and ignores the significant roles culture (see Garland 1990) and ideology (see Chan and Ericson 1981) play in forming penal policy. The fiscal crisis argument is outlined below, followed by criticisms of that position.

A fundamental and instrumental analysis of political economy is contained in O'Connor's book, The Fiscal Crisis of the State (1973). In it O'Connor explores the thesis that state expenditures are an essential part of the role of advanced capitalist states. Social expenditures are likely to vary depending upon their relationship to the primary state functions of accumulation and legitimation. O'Connor argues that economic activity is divided into public and private capital, which in turn consists of small-scale competitive business, and monopolistic enterprises (1973:6).

Social expenditures that aid monopoly capitalism's profitable accumulation or maintain social harmony are utilized by the state: in that sense control of deviant subgroups in a population is almost a byproduct of the effort to sustain the capitalistic state. Individuals whose actions offend the morality of the dominant capitalist class are dealt with in ways that coerce them to conform. Law is the standard; incarceration its ultimate sanction.

As Ratner observes, despite claims of universality and impartiality, the state (and law) is "unavoidably implicated in shoring up the ramparts of vested capitalistic interests" (1987:29). O'Connor adds that "particular expenditures and programs and the budget as a whole are explicable only in

terms of power relationships within the private economy" (1973:5).

In Chapter II it was noted that the state must balance three competing roles: control of problematic sub-groups, fostering conditions for economic growth, and maintaining political power. The following discussion will illuminate the second function of the state: the accumulation function.

Accumulation Function

Capital accumulation is a central and essential process in capitalist development,¹ the driving force, in fact, of continued economic growth within modern capitalist societies. Gough reinforces Witherspoon, stating "there are objective laws of capitalist development which, within limits, operate independently of man's will" (1975:66). According to Gough, two such laws are the accumulation and centralization of capital, and following from it, the law of combined and uneven development (1975:66).

Regarding the first law Gough writes, there are "... inbuilt tendencies for capital to accumulate and to be concentrated in fewer and larger units.... Capitalist competition in the context of rapid technological

1. Comes from Political Economy of Crime, Chapter XI by Witherspoon, who summarizes O'Connor.

development ensures the continued concentration into fewer and larger corporations and units of production" (1975:66).

Castells elaborates further on the effects of corporate concentration and the resultant uneven economic development. Citing Karl Marx, Castells notes that the changing relationship between 'living labour' or variable capital (wage labour), and 'dead labour' or constant capital (buildings, raw materials, machines, technology, etc. utilized in production), in an increasingly technological age leads to falling rates of profit (1980:16-17). The analysis of declining profit rates is critical in any analysis of the cyclical nature of economic development within advanced capitalist societies. As Castells argues,

"Falling profit rates result in a surplus of capital because the increasing mass of capital accumulated by growing extraction of surplus value finds fewer and fewer possibilities for investment with an adequate return. There follows a decline in productive investment, which leads to a decline in employment and to a concomitant reduction of wages paid by capital. As wages decline, demand shrinks in a parallel way, provoking a crisis in the selling of the already stocked commodities. Thus, a crisis of overproduction occurs because even the restricted productive capacity cannot be absorbed by the existing solvent demand since demand in turn has been reduced by falling investments. The inability to realize its commodities induces capital to halt production, increasing unemployment and depressing markets" (1980:16).

Depressed markets, recessions and cyclical periods of relatively high unemployment and inflation then, are seemingly unavoidable - notwithstanding certain

'countertendencies' which may, theoretically, stop or reverse the structural tendency towards cyclical economic downturns (Castells 1980:19) - and have obvious and damaging ramifications for capitalist societies.

According to Gough, the socio-economic consequences of the twin tendencies toward accumulation and concentration of capital are threefold:

- a) as capital expands its influence to all sectors of society, the proportion of self-employed, small farmers, and independent professionals falls while the proportion of employees of large-scale capital rises, leading to the continuous proletarianization of the population;
- b) the "quality of labour power must necessarily be raised in all capitalist economies to match the increased sophistication of production and of its attendant social processes"; and
- c) there is a tendency towards urbanization; therefore regional and sub-regional areas expand and contract in uneven ways (1975:67).

The direct consequences of the progression towards corporate concentration include a growth in the ratio of 'means of production' (resources, tools, and other objects employed by human labour in production) compared to direct labour, the 'deepening' of capital, greater inflexibility of

capital commitment, massive infusions of technology into the productive process, and increasingly complex corporate organization and planning (Gough 1975:66).

The cyclical downturns and irregular periods of recession resulting from this process led to heightened demands for state-provided remedies to the economic misfortunes suffered by many. Accordingly, certain functions are imposed on the capitalist state (Gough 1975:66), and state intervention is seen as a normal and dominant element in the reproduction of capitalism (Jessop 1982:32). The state assumes a prominent role in maintaining or trying to create the conditions in which profitable capital accumulation is possible (O'Connor 1973:6; Gamble and Walton 1976:31), yet attempts to absorb, smooth, and regulate the contradictions inherent in the process of accumulation (Castells 1980:58).

O'Connor (1973) provides us with a map for the types of expenditures governments make, and describes their usefulness to the state in achieving its goals of accumulation and legitimacy. He suggests that all state expenditures can be classified into three categories. Although the placement of particular expenditures can be debated, O'Connor's analysis provides useful insight into government expenditures in general, and specific state-sponsored programs and initiatives in particular.

O'Connor categorizes all state expenditures into:

- a) 'social investment', which "consist of projects and services that increase the productivity of a given amount of labour power and, other factors being equal, increase the rate of profit";
- b) 'social consumption', or "projects and services that lower the reproduction costs of labour and, other facts being equal, increase the rate of profit"; or
- c) 'social expenses', consisting of "projects and services which are required to maintain social harmony" (1973:7).

Social investment is further divided into 'physical capital' and 'human capital'. Physical capital includes economic infrastructures such as transportation (for example, roads, highways, airports, railroads, ports), utilities and related industrial development projects, plants and equipment for education, research, and development, investments in water and land improvements, agricultural and mineral exploitation and construction, and urban renewal projects such as commercial structures, sports stadiums, and parking garages. Human capital are those teaching, administrative, and other services at all levels of the education system, and scientific, research and development services both inside and outside the education establishment (O'Connor 1973:101).

Social consumption expenditures are indirectly profitable, as they lower the reproduction costs of labour. These expenses include goods and services which are consumed or collectively utilized by the majority, such as suburban development projects (recreation facilities, home mortgage subsidies and guarantees), urban renewal projects (mass transit and other commuter facilities), and other related services and projects (such as child care). Social consumption expenditures also include social insurance against economic insecurity, such as workman's compensation, old age insurance/social security, unemployment insurance, and medical and health insurance (O'Connor 1973:124).

Using O'Connor's analysis, a national fiscal policy must combine appropriate mixes of social investment and social consumption expenditures to maintain profitable capital accumulation. Particular expenditures made are dictated by the interplay of the three functions of government, but especially by the requirements of monopoly capital to accumulate surplus value and remain profitable.

Legitimation Function

Maintaining social consensus and legitimating the social order are important precursors which aid the accumulation process. Turkel suggests the justifiability of the social order is questioned when it appears that disruptions occur within the very "social fabric, the institutional arena and the world of interaction" (1980:21). For Habermas, there are tendencies inherent in advanced capitalist societies which lead to structural dislocations that threaten the reproduction of advanced capitalism as a system. In addition, basic aspects of these societies serve to disorient major sectors of the population, generating disaffection and withdrawal (1975:48).

Two major reasons for the spread of disaffection among casualties of capitalist systems are surplus labour power and surplus productive capacity. While surplus labour power builds up political pressures for the growth of the welfare system, O'Connor suggests also that surplus productive capacity creates political pressure for foreign economic expansion (1973:150). Military expenditures are obvious byproducts of such a thrust.

In this context, legitimation is viewed as "1) an element that serves to maintain authority in authority systems; and 2) as a communicative process among members within an authority system" (Tukel 1980:22). Legitimation

is engendered through the use of social expenses. Although not directly productive, social expenses are necessary in order to foster a government's legitimacy (O'Connor 1973:7). "Through social welfare... and other programs, the state serves to compensate groups that have been socially and economically displaced by dislocations engendered by private capital accumulation and investment" (Turkel 1980:20). Compensation, in turn, communicates legitimacy and lends support to existing social and political hierarchies.

The last half-century or so has witnessed the state assuming an increasingly large role in the capital accumulation process. The increasing complexity of the economic sphere and intensified demands by consumers for protective schemes to shield them from the negative effects of a market-driven economy led to significant shifts in public policy, most notably the introduction of Keynesian economics.

Keynesianism

In the nineteenth and early part of the twentieth century governments in capitalist nations generally adopted a relatively passive, 'laissez-faire' role in the economy. Moscovitch and Drover document the growth of the modern welfare state in Canada, suggesting the period from 1891 to 1940 was a period of 'reluctant welfarism': the welfare state truly developed after 1940 (1987:15-16). Indeed, the

experience of the Great Depression and subsequent recessions have spurred on the development of economic policies and social service programs designed to ameliorate the difficulties caused by contradictions within advanced capitalist systems.

In fact, a coherent set of policies was formulated and advocated by John Maynard Keynes and adopted in many western industrialized nations in the post-World War II period. The debilitating experience of the Great Depression and the subsequent strong economic activity during the Second World War inspired and reinforced the belief that state intervention in the markets could moderate the harsh irregularities of raw capitalist market forces.

The effects of those two major events led Wolfe to state:

"traditional assumptions about the limited political role of the state were shattered, to be replaced by the belief that the state could, and should, assume responsibility for sustaining high levels of employment and economic growth" (1984:46).

Following is an account of the introduction of Keynesian economic policies and the consequent effects of those policies on employment, inflation and economic growth.

According to Wolfe, a falling level of consumer demand, accompanied by a lack of investment and the absence of any substantial moderating or regulating effect led to the disastrous Depression of the 1930's (1984:47). In fact, a host of interrelated factors contributed to the demise of the Canadian economy. Canada's market was dominated by exports of staples; namely, grain, pulp and paper, and metals. When Canada's largest trading partner, the United States, encountered a cyclical downturn in its economy and erected protectionist barriers to imports from other countries, Canada's markets began to collapse. Severe drought only exacerbated the problem. The immediate ramifications of meagre grain production and barriers to exports were decreased purchasing power on the part of farmers, unemployment for thousands of employees of eastern factories, little or no construction, recalled loans which resulted in less circulating currency, fewer goods produced, more layoffs, and a self-perpetuating cycle of despair. Rapidly increasing numbers of jobless and poor drained the nation of any capacity for a quick recovery.

The pattern of decreased demand and its effects on the larger economic situation was similar throughout the western world. Significant was the admission that economic crises were not merely local in scope but that "...interpenetration of production and distribution of commodities and the

circulation of capital flows determine a general pattern of recession" (Castells 1980:5).

John Maynard Keynes, recognizing the effects of decreased demand, proposed its manipulation by strategic use of fiscal - taxation and spending decisions - policy. According to Keynes, the size of the state sector "gave governments the power to create and manage prosperity by manipulating its spending and tax policies and thus the income and expenditure of other sectors in the economy" (Gamble and Walton 1976:43).

By modifying rates of taxation and spending policies in times of high unemployment, the state could offset the fall in the level of private demand (Wolfe 1984:47), thereby interrupting the negatively spiralling cycle of unemployment, leading to decreased demand, leading to greater unemployment and even less demand.

Against the orthodox wisdom, Keynes made massive state intervention respectable. And, as Nazi Germany and New Deal America discovered in the 1930's, and the United Kingdom realized during the Second World War, state planning and intervention was not only practicable, but necessary. The social and political upheaval caused by the war united all parties over the need for "an expanded state sector, greater spending on social services, nationalization of basic

industries, and government commitment to full employment" (Gamble and Walton 1976:43).

Keynes advocated and "legitimated higher levels of spending on social insurance, not as charity, but as 'automatic stabilizers' built into the economy, which would buoy up aggregate demand in periods of cyclical downturn" (Wolfe 1984:48). The fundamental shifts in economic policy that occurred following Keynes' writings took place to differing extents in most western industrialized nations. Social policies resulting from that shift were welcomed by many individuals who were materially and emotionally disabled by the pendulum-like economic swings prior to the Second World War.

However, "none of these measures involved any serious political conflict with any important economic interest. Nor did lower interest rates, lower taxes, or higher public expenditures meet any serious political objections" (Galbraith 1981:20). Prices were relatively stable, and the overall economic climate was considered pleasant for economists and economic policy. Also, public officials became accustomed to such favourable circumstances and did not anticipate the changes that were to drastically alter both the economic and the political context of macroeconomic policy (Galbraith 1981:20).

Despite the generally warm public reception to Keynesian economic policy, Keynes' policies did lead to growing conflict between labour's demands for full employment and steadily rising real wage levels, and the demands of business for adequate profit levels. The state's ability to reconcile these competing demands deteriorated after World War II, and resulted in higher levels of unemployment and spiralling rates of inflation, or 'stagflation' (Wolfe 1984:48).

While increased corporate concentration allowed corporations to hold and increase prices independent of the free market, trade unions seemingly were unleashed after World War II. "Everywhere they advanced their claims with increasing confidence and set the pattern for all wages" (Galbraith 1981:20). As farm pricing came to be supported by government, and the oil producing nations in the Third World formed price and production cartels, the regulating, if not suppressing effect of the free market was set aside (1981:21).

As Galbraith states, these forces combined resulted in "a new and intractable form of inflation. Prices could still rise as a consequence of strong demand. But prices now also rose as a result of the market power of corporations, trade unions, farmers, oil producers, and other organized power" (1981:21).

The combination of the above factors, and increasing demands from all sectors of Canadian society in the 1950's, 1960's, and 1970's drove up state expenditures dramatically and resulted in inflationary spirals previously unheard of. In fact, by the end of the 1960's it became apparent that one economic problem of the post-war world Keynesianism could not solve was that of permanent inflation. Double-digit inflation in many capitalist countries, along with major currency crises and rising industrial militancy combined to give birth to a strong anti-Keynesian counter-revolution (Gamble and Walton 1976:45) known as monetarism.

Monetarism

The inability of Keynesian policies to deal in any adequate way with sustained inflation hastened the advent of anti-Keynesian economic theories, the most prominent of which is 'monetarism'. "The principal tenet of monetarism is that inflation is at all times and everywhere a monetary phenomenon. It's principal policy corollary is that only a slow and steady rate of increase in the money supply - one in line with the real growth of the economy - can insure price stability" (Macesich 1983:3).

Monetarists disagree with Keynes' assertions that price levels rise or fall in response to the interaction and behaviour of government, capitalists and consumers, and not

by the supply of money: therefore, any effort to control inflation has to be concerned with controlling the money supply (Gamble and Walton 1976:60, 62).

Accordingly, monetarists and Keynesians split over the nature and role of the state sector and the management of the 'mixed economy'. By focusing on the control of the money supply in defeating inflation, monetarists reject one of the primary goals of Keynesianism: that of maintaining full employment (Gamble and Walton 1976:64). Instead, monetarists argue, money should become a universal standard to facilitate exchange, not manipulated with deficit financing to reflate the economy: it follows that governments should only be able to spend what it can raise through taxes or borrowing (Gamble and Walton 1976:64). In addition to the exercise of monetary restraint and a drastic reduction of state activities, monetarists argue inflation can only be contained by the elimination of the budget deficit and the deliberate creation of unemployment (Gamble and Walton 1976:29).

Underlying monetarist economic policies is a belief in the efficacy of the free market system and faith in the tendency of the markets to adjust by themselves, provided government does not interfere. Monetarists are adamant foes of the public sector: transfer payments, regulations and other forms of government intervention all impede the free

and efficient functions of the market mechanism. In keeping with this thinking, monetarists advocate abolishing restrictive government regulations, demand reductions in the size of public sector unions and less legal protections for unions overall, and propose reducing the social security net as well as taxes (Crane 1981:3).

One strategy advocated by monetarists - unabashedly and wholeheartedly supported and 'preached' by economists, right-of-centre politicians, and economy conscious bureaucrats at every level - to achieve some relief from the 'fiscal crisis' and simultaneously reduce the size of government overall, is that of 'privatization.' As noted in Chapter IV, proponents of privatization strategies boast of significant cost reductions, increases in efficiency, a smaller public sector, and greater responsiveness to public needs as primary reasons for the urgency to remove the provision of state functions from state hands to private providers.

As the following discussion suggests, each of the enumerated rationales for privatization are evident in the Canadian context. Canada's fiscal situation of the last twenty years is being used as a primary rationale to justify state efforts - in a variety of public policy sectors - to become more efficient, to reduce costs and decrease the size of the public sector, and generally to utilize innovative

means of responding to public policy demands in less expensive fashion.

Applications in Canadian Public Policy

Background

To illustrate the relevance of this thesis argument to the Canadian criminal justice system, the reader is drawn to an historical review of Canadian social policy and economic developments in the last half-century. Understanding these developments will enable the reader to grasp the significance of the government's stated reasons for public policy shifts, particularly the privatization of federal parole supervision. It is interesting to note that, while the dramatic rise in contracted parole supervision has taken place relatively recently, the antecedents to this shift can be traced to policy developments made up to 50 years ago.

As discussed above, John Maynard Keynes' suggestions for moderating the negative effects of raw capitalist market forces became vogue around the time of the Second World War. Despite the departure from then-current understandings of the state's role in a country's economic affairs, Keynes' philosophies were adopted by numerous capitalist countries, including Canada.

In fact, during the war years several principal inquiries laid the foundation for the modern structure of

Canadian social welfare institutions. They included the Royal Commission on Dominion-Provincial Relations in 1940, the Committee on Health Insurance (Heagerty Committee - 1942), the House of Commons Advisory Committee on Post-War Reconstruction (Marsh Report - 1942), and the Dominion-Provincial Conference on Reconstruction, Proposals of the Government of Canada (the Green Book proposals - 1945) (Armitage 1988:274). Undergirding the proposals of those inquiries and documents were the "bold political promises of a 'charter of social security for the whole of Canada', contained in the Throne Speeches of 1943 and 1944" (Johnson 1987:2).

The 'charter of social security' had as its foundation four cornerstones: 1) to maintain high and stable levels of employment and income; 2) to provide income support for seasonally and longer-term unemployed; 3) to provide for the contingency of old age or retirement; and 4) a universal health insurance plan, comprehending both hospital and medical care (Johnson 1987:3-4).

Heightened expectations and increasingly extensive participation by government in the areas of education, health and social security during this time marked a new era of public responsibility. Some of the measures idealized within the 'charter' were to include minimum wage laws, family allowance, unemployment insurance, old age security,

old age pensions, and medical insurance, among other provisions (Johnson 1987:4-5). The larger scheme was soon expanded to include environmental protection and job and product safety to protect the individual from circumstances with which he or she could not contend. In addition the expectation arose that governments must act to provide the services that by their nature are not available from the private sector, or on which - like moderate-cost housing, health care, and urban transportation - private enterprise defaults (Galbraith 1981:10-11).

Specific major pieces of social security legislation characteristic of the newly adopted "charter" were the Unemployment Insurance Act (1941), Family Allowances Act (1944), Old Age Security Act and Old Age Assistance Act (1951), Canada Pension Plan (1965), Canada Assistance Act and Guaranteed Income Supplement (1966), and the Medical Care Act (1968). Numerous legislative revisions of several of these Acts occurred in the early 1970's (Canada Year Book 1988:6-7). In fact, prior to 1940 only four major pieces of social security legislation were enacted. In the thirty years following 1940, 16 major new and revised legislations were in force (Canada Year Book 1988:6-7).

As a result of those initiatives, changing public expectations and new priorities, government spending on social service programs increased dramatically from the war

years on: government spending in general rose phenomenally. For example, in 1930 government spending accounted for 19.2% of all spending in the Canadian economy. Half a century later, in 1982, 47.4% of gross national expenditures were made by the various governments of Canada (Wolfe 1984:46). In real figures spending in 1930 amounted to \$313 million (Canadian Statistical Review 1970:25). Gross general expenditures of the federal government in more recent years has grown from approximately \$24.3 billion in 1974 to \$101.1 billion in 1984, to more than \$120.4 billion two years later (Canada Year Book 1978-9; 1988; 1990: see Table 1).

TABLE 1: Gross general expenditures of the federal government (selected years)

1974	24.277m	1981	67.880m
1975	30.891m	1982	78.776m
1976	36.845m	1983	92.449m
1977	41.213m	1984	101.968m
1978	45.955m	1985	113.974m
1979	50.614m		
1980	57.177m	1990	120.440m

(Canada Year Book 1978-9, 1988, 1990)

To meet the new policy objectives outlined in the Throne Speeches of 1943 and 1944 meant the Canadian government had to engage in deficit spending. This was a radical departure from the entrenched principles of balanced budgets and a central banking system which "confined itself

to maintaining a supply of money sufficient for the legitimate needs of trade" (Macesich 1983:162-3).

Never before had the Canadian government been required to borrow money on an ongoing basis to fund programs and services it was expected to provide. Yet, with growing corporate and individual pressures for various forms of subsidy and the increasingly social nature of the production process, social investment expenditures rose. The demands of labour for improved standards of living, and employers' insistence that the costs of improved standards be passed on to the state, drove up social consumption expenditures. Social expenses rose because of the contradictory tendency of capitalism to generate an ever larger surplus population "whose protests force the state to respond with increased welfare" (Block 1981:7).

Despite this, the federal government experienced relatively stable economic times until the mid-1970's. Military and related expenditures fell drastically and revenues increased sharply. The 'debt-to-GNP ratio' continued to fall from the early 1950's (52% in 1951-52) to the mid-1970's (17% in 1974-75) (Canada 1985:6).

Since 1970, however, Canada has experienced 20 straight years of annual government deficits, as the cost of providing an increasing number of programs and services rose

far beyond what the various governments were receiving in revenue (Table 2). In the latter part of the 1970's and into the early 1980's, the real growth rate of the economy dropped sharply, inflation remained high, and a combination of high interest rates and a devastating recession intensified the deficit problem. Debt service charges added to an already burgeoning debt, and Canada's fiscal problems grew exponentially.

Canada's Current Fiscal Situation

To grasp the significance of the current debt problem, one only has to go back to 1969, when Canada's national accounts last revealed a surplus of \$1.02 billion (Canadian Statistical Review 1970:27). By 1990/91, Canada's national account revealed a deficit approximating \$30 billion, contributing to a federal debt of about \$388 billion. Collectively, Canadians owe about \$1 trillion, both personally (\$365 billion) and through their municipal (\$29 billion), provincial (\$195 billion) and federal governments (\$388 billion) (The Vancouver Sun 08 April 1991:C7)

One function of huge debt accumulations is higher interest rates, as lenders require greater returns to compensate for risk factors and future inflation, and in order to attract investors. Real interest rates higher than the real rate of economic growth, however, compounds the

Table 2: Federal government surplus/deficit accounts
(in millions)

1961	-410	1971	-145	1981	-7315
1962	-507	1972	-568	1982	-20281
1963	-286	1973	-360	1983	-24993
1964	345	1974	-1053	1984	-30024
1965	544	1975	-3962	1985	-31685
1966	231	1976	-3337	1986	-24069
1967	-84	1977	-7343	1987	-23373
1968	-11	1978	-10854		
1969	1021	1979	-9383		
1970	266	1980	-10663		

(Statistics Canada 1988:50)

fiscal problem. Each time interest rates rise by one percentage point, the debt servicing costs increase by \$1.5 billion in the first year, rising to approximately \$3.5 billion after 4 years (Canada 1989b:33).

Complicating matters further is inflation. Seldom presented as a widespread economic problem prior to the early 1970's, inflation has fluctuated between 2.8% and 12.5% since 1971. Inflation in the last half of the 1980's has hovered around 5% (Statistics Canada 1988:8). Inflation is damaging in its own right, as prices spiral upward and economies become more difficult to manage. If governments intent on suppressing inflation raise interest rates - thereby limiting money supply - the increased cost in terms of servicing a national debt escalates exponentially. As many western industrialized nations experienced in recent years, the effects of such an economic war can be crippling.

Yearly spending to service Canada's debt now exceeds any single program expenditure, surpassing even the spending for the entire budgetary category of 'transfers to persons'. Besides debt service charges, the major component of the federal government's current spending are programs designed to help government meet social, economic and international policy objectives. The seven major categories of programs on which the Canadian government spends money are foreign aid (3%), payments to Crown corporations (4%), defence (11%), major subsidies and transfers (11%), operation of government (16%), transfers to other levels of government (24%) and transfers to persons (30%) (Canada 1985:2). In 1988-89, total federal government spending equalled almost \$133 billion, 75% of which was dedicated to programs.

Although the portion of overall government spending committed to debt service charges remains at about one-quarter, the government now dedicates approximately 35 cents of every revenue dollar to servicing the public debt. This has increased from an amount equal to 25 cents for every dollar of revenue in 1981, which in turn is more than double the 12 cents of every revenue dollar used to service Canada's debt in 1969 (Canada 1989:1-4). Despite this, the amount of interest required to service Canada's debt is rapidly increasing. In 1980, interest on the debt amounted to about \$9.9 billion. By 1987, that figure escalated to

over \$27.7 billion (Statistics Canada 1988:50). By the turn of the century, unless the debt is reduced the government will be paying more in interest than it currently collects in total personal income taxes (The Province, 18 Feb. 1990:C15).

When these figures are placed in the context of ever-increasing taxation, and therefore, revenue, their significance is multiplied further. The percentage of income earned by Canadians which went to taxes has risen from 39% in 1969 to 50% in 1989 (The Province, 18 Feb. 1990:C15). One set of figures suggest that the personal tax burden has risen almost 70% from 1984 alone (The Province, 18 Feb. 1990:C15). Combined federal government revenue from all sources has increased from almost \$71 billion in 1984-85 to approximately \$121 billion in 1990-91 (The Province 18 Feb. 1990:C15).

Another measure of increased taxation is one calculated annually by the Fraser Institute in Vancouver, BC. The 'day of tax liberation' (after which an individual's earnings are considered disposable) has moved later and later into the year. For instance, in 1984 the average taxpayer in British Columbia worked until May 29 to pay for the many taxes imposed by various levels of government. By 1990 'tax liberation date' had changed to June 20 (The Vancouver Sun 08 April 1991:C7).

Despite the increasing proportion of expenditures dedicated to debt service charges, the government is obviously spending much more on programs now than it did only a few years ago. In 1988-89, of the total \$30 billion in 'transfers to persons', \$15.4 billion (51%) was spent on the elderly benefits system, \$10.8 billion (36%) on unemployment insurance benefits, \$2.6 billion (9%) on family allowance, and \$1.2 billion (4%) on veterans pensions and allowances (Canada 1989a). In 1980-81, the total amount spent in the same category was \$14.6 billion (Canada 1988), an increase of 105% in less than a decade. Spending on national defence has risen rapidly as well, from \$5.0 billion in 1980-81 to \$11.1 billion in 1988-89 (Canada 1988), again more than double.

Partly as a response to these fiscal realities, privatization became a public policy consideration for public administrators across the spectrum of state programming. As demonstrated in Chapter VI, however, the fiscal crisis is not the only, or even necessarily the primary factor influencing the move to privatized service delivery in the area of corrections. Chapter VI demonstrates the fundamental shift from public to private provision of parole supervision services. In addition, many interrelated and ancilliary legal and practical changes had to take place in order to facilitate the increased practice of privatized

parole supervision. Prior to this discussion, the larger privatization argument is reviewed in Chapter IV.

CHAPTER IV

The Privatization Debate

Introduction

Privatization is currently presented by many as a solution to the widespread fiscal and monetary difficulties experienced by industrial democracies worldwide. Economists, politicians, researchers, public administrators, and reformers alike promote the concept of privatization. It is often presented as a panacea for government officials trying to limit costs (Butler 1987; Goodman 1987; Moore 1987; Palumbo 1986). Proponents cite empirical studies and advance theoretical arguments concluding that privatization is "...more efficient..." (Talbot and Jayewardene 1981:34; Kent 1986:4-7), "...a painless alternative to the budget-cutter's knife" (Moore 1987:60), and "...cost-effective" (Camp and Camp 1985:14). Advocates also support privatization on the grounds that private owners are better managers (Poole 1985:40), can be more flexible in response to changing conditions (Logan and Rausch 1985:313), and that privatization decreases government liability in lawsuits raised by individuals (Robbins 1986:24-5).

Madsen Pirie, one of the foremost advocates of privatization, is exuberant in his optimism about the potential of privatization to cure many ills. During a speech at an international symposium, Pirie declared:

"You'll find that it enables you to bring opportunities to ordinary people. It gives your citizens a chance to take part in the wealth-creating process. It speeds up economic growth. It cuts the cost of government. It turns losses into tax revenues....It has spread on a world dimension to more than 100 countries so far, providing choice and opportunity. It is without a doubt the most significant economic fact of our age, and I would predict we are at the beginning of probably a fifty-year cycle of retreat by the state in the public sector and promotion of opportunities for private enterprise and participation by ordinary people."
(1988:14)

There is, however, a more complete argument to be made about privatization. The debate invariably centres around the following areas of concern: economic; philosophical and rational; and legal, or constitutional. Generally, arguments in favour of privatization focus on economic logic. Conversely, detractors usually raise issues of philosophical and constitutional concern.

The Arguments: Pro

Attracting by far the most comment and debate is the collection of arguments loosely grouped together in the economic sphere. Arguments over efficiency, cost-effectiveness, taxes, and government spending dominate this discussion.

Bailey (1987:141) observes that regardless of the usage of the term privatization, the unifying thread underlying all definitions and forms of use is 'maximization of

efficiency'. Even ardent detractors of the concept of privatization do not generally argue against the proposition that in most cases private provision of services or production of goods is more efficient than government (Robbins 1986:24; Kent 1986:6-7; Butler 1987:5).

Bailey (1987:141) notes that the constraints of labour, the press, and the public all place higher standards of accountability on government than on private enterprise, creating a less efficient environment. On the other hand, demands placed on private enterprise by self-imposed objective performance measures (Poole 1983:108) and the competitive nature of most private enterprise promotes self-indulgence in efficiency measures, for greater efficiency immediately translates to competitive advantage over rival entrepreneurs (Kent 1986:7).

Some government functions are performed by what Clear, et al. calls 'domesticated' organizations (for instance, provincial hydro and telephone companies) - characterized by fixed product monopolies, minimal self-assessment, and no real competition. Clear suggests that this status tends to allow officials to escape from the burden of studying productivity, and they are often "'inadvertently rewarded by taking a budget-administration approach rather than a cost-management stance'" (Travis et al 1985:13). Generally, the prestige and power ascribed to a government agency is

related to the size of the agency's budget and the number of employees within its jurisdiction (Poole 1983:106; Kent 1986:7), not to whether the consumer of that agency's products or services is satisfied or to how low that agency's costs have been kept (Kent 1986:7).

Another advantage of privatization (especially contracting out) is its ability to reveal the true costs of public service. Government accounting systems are generally incapable of isolating the full costs of a public activity or service, as direct costs are often buried within the expenditure records of various agencies, and indirect costs are even more elusive. Privatization raises the visibility of these costs (Mullen et al 1985:81), providing an opportunity for government critics to attack state-run service provision.

Proponents of privatization also argue it is inefficient to provide public services on inappropriate 'economies of scale'. For some services, a particular city may be too small a scale for maximum efficiency, in which case it makes sense to purchase the service from a supplier large enough to serve more than one city (for example, capital-intensive services like secondary wastewater treatment plants). For other services, a particular city may be too large a scale for maximum efficiency, and multiple

suppliers may be more efficient than a single organization or agency with a monopoly (Poole 1983:107).

Competition also induces greater efficiency and cost-effectiveness. Adam Smith's notion of the 'invisible hand' of competition causing producers to maximize the well-being of all (Kent 1986:7) remains pertinent to this analysis. With competition, "privatization has the potential to reduce the stultifying effects of government provision and production of goods and services" (Pascour 1983:463).

In addition to the above economic arguments for privatization, philosophical and rational reasons support the shift from governmental to private provision of goods and services. Competitiveness between providers of goods and services not only benefits the consumer economically, but also maximizes consumer choice and satisfaction. In fact, Starr states that the enlarged range of choices privatization offers is "unquestionably the single strongest point in the case for privatization" (1987:131-2). "By making service purveyors more accountable to consumers, it [privatization] encourages innovation and diversity. Giving consumers choice among competing producers allows for greater accommodation of their differing needs" (Kent 1986:7), as well as allocating resources among competing uses more effectively and efficiently than public agencies (Palumbo 1986:600). Privatization also encourages

entrepreneurship as non-government providers strive for creativity (Kent 1986:7).

Privatization can also have the effect of motivating government to monitor and evaluate existing programs and services, reforming them where necessary. Where government does not have the resources or the capability to extend its reach to particular areas, private agencies can intercede and provide a desired service (Sapers 1987:4).

In addition, privatization enables users of the service to provide appropriate feedback to service providers. Poole (1983:108) makes the point that when services are provided 'free' by taxpayers, whatever feedback and monitoring exists operates via the usually slow and cumbersome political process. He suggests that this process tends to be dominated by organized interest groups rather than giving voice to every consumer voting with his or her own dollars. By providing direct 'feedback loops' to providers, privatization maximizes allocation choices and efficiency.

The legal benefits of privatization are not yet fully documented. But one anticipated advantage of privatization in the correctional field is decreased liability of the government in lawsuits that are brought by inmates and prison employees. Whether this benefit will be realized is dependant upon the resolution of at least two constitutional

issues (at least in the U.S.) (Robbins 1986:24-5): whether or not the state can legally "distance" itself from actions performed by private entities, and whether or not the privatization of a function removes a degree of accountability from the state (Sullivan 1987:462). Further discussion of these issues occurs below.

The Arguments: Con

As mentioned earlier, many of the most strident arguments supporting privatization rest on economic tenets. But, as Moe suggests, "as long as the premises of privatization do not extend beyond the relatively narrow confines of the public choice and free market paradigm and are not challenged or modified by significant issues of public law, then its advocates admit to few recognizable limits to the efficacy of privatization. But the real world is not limited to economic premises" (1987:458). Accordingly, most detractors of privatization cite philosophical, rational, and legal reasons to support their view. Therefore, these issues will dominate the following discussion, although economic arguments against privatization will also be reviewed. It is also relevant to note that many of the criticisms of privatization deal specifically with privatization in the criminal justice context, and are not equally applicable in other contexts. Care must be taken not to confuse the criticisms of

privatization in criminal justice with other areas of governmental influence.

When government hands over the delivery, provision, or production of services or goods to a non-governmental agency there is a concern that government, in its monitoring function, will become too distant from the process and will not be able to exert sufficient control over private agencies. Especially in the case of contracting out, McEntee (1985:8), president of the American Federation of State, County, and Municipal Employees (AFSCME), writes that the level of accountability and responsiveness to the government is pushed "one more giant step away".

Mullen et al (1985:75) fear the buildup and maintenance of two parallel bureaucracies - the large government monitoring apparatus and the management structure of the private agency - an arrangement they suggest might diffuse rather than clarify public versus private missions.

Ronald Moe (1987:456) approaches the issue of privatization by clarifying the distinctions between public and private sectors. In his analysis, the concept of 'sovereignty' is the single most important distinguishing characteristic. Inherent in the concept of sovereignty are particular rights and immunities ascribed to government; organizations functioning in the private sector do not (or

at least in Moe's opinion, ought not) possess such rights and immunities.

Among other attributes, a sovereign possesses the legitimate right to use coercion to enforce its will (for example; taxation and the imposition of sanctions to enforce legislation), is indivisible, and cannot assign its attributes to a private party and remain sovereign (Moe 1987:456). Moe insists that "in any serious analysis of a proposal to assign the performance of a function to the public or the private sector, the first question should be: Does the performance of this function necessarily involve the powers properly reserved to the sovereign? Or, is the function largely private in character requiring none of the coercive powers of the sovereign?" If a public function is assigned to a private entity, through contract or otherwise, "there is an inevitable weakening in the lines of political accountability" (Moe 1987:457). The public is faced, then, with the possibility that a government that is no longer responsible for day-to-day provision of a service is also no longer accountable for the provision of those services (Travis et al 1985:14).

It is also a philosophical issue whether some functions traditionally performed by agents of the government should be performed by individuals or companies in the private sector (Johnson 1986:3). Harrison and Gosse (1986:191)

propose that it is the state's responsibility to promulgate and administer laws related to crime. They suggest that to extend the involvement of the private sector, especially profit-oriented firms, in some areas of criminal justice "would appear to offend the philosophical premises of the state's authority and responsibility in this area".

Dilulio adds poetic insight to this argument:

"Regardless of what penological theory is in vogue, the being of every correctional facility contains the message 'Those who abuse liberty shall live without it.' That message is to be conveyed by the offended community of law-abiding citizens, through its duly constituted public agents, to the incarcerated or detained individual. It is precisely because corrections involves the deprivation of liberty, precisely because it involves the legally sanctioned exercise of coercion by some citizens over others, that it must remain wholly within public hands" (1986:5).

Starr, expressing a similar concern, emphasizes the 'symbolic' nature of privatization, especially in the administration of justice and the exercise of coercive power. Starr explains that "meting out justice is a communicative act; its character ought not to be confused. And where the state represents the nation and seeks to speak with one voice, it needs public servants loyal to its highest interests, not private contractors maximizing their own" (1987:134).

Other critics of privatization agree, asking whether those responsible for the management and delivery of

contracted correctional services will show greater concern for the maximization of profit and less concern for the delivery of high quality, caring and professional services (Harrison and Gosse 1986:192; Mullen et al 1985:81).

Harrison and Gosse (1986:193) question whether taxpayers should be expected to bear the burden of paying for services plus a built-in profit factor. Ideally this may not pose a problem if the private sector provides a good or service at no more cost than government, but such guarantees are difficult to obtain.

Some critics suggest the profit motive is an inducement to "cut corners" by hiring inexperienced, transient personnel at low wages, ignoring contract requirements, and possibly utilizing inadequate supervision (McEntee 1985:7). The AFSCME also derides privatization on the basis that it is all too often associated with bribery, kickbacks, and collusive bidding. The writing of contract provisions (Mullen et al 1985:78) and political patronage may also lead to corrupt and questionable privatization activities (McEntee 1985:7-8).

The legal aspect of liability and accountability is also worthy of mention. The entire legal ramifications of privatization have not been established. Therefore, some debate exists over the extent of legal responsibility

government holds for actions initiated by outside agents within the privatization context.

In this vein, some U.S. legal doctrines may have relevance to the Canadian privatization context. Sullivan (1987:462) explains the concept of 'state action' and hypothesizes the extent to which its application will affect citizens' rights and the protection of civil liberties. In the United States the doctrine of 'state action' determines whether private agencies are subject to the same limitations as government. Briefly, two categories of 'state action' exist: the first focuses on the nature and extent of government involvement with private decision makers and asks who is truly responsible for a particular action or decision; the second shifts the focus from the actor to the action itself, looking to see if an activity is deemed to be a traditional public function. If so, it may not matter who performs it, for its government character subjects even a purely private actor/agent to constitutional restraints on governmental power.

Citizens' rights must also be considered. For if the activities of private for-profit and not-for-profit agencies do not fall within the legal confines of 'state action' doctrine, then one can question whether individuals subject to such activities lose vital rights, and whether the state escapes the obligations and restrictions otherwise incurred.

Ethical concerns about privatization are also raised. Dennis Palumbo (1986:603) questions whether business should be allowed to profit from the forced misery of others. He argues that the state uses its monopoly on power to punish those who break its laws and it does not seem right to give profit-making firms the chance to make money under these circumstances. Palumbo reasons that a 'customer', or offender, has no opportunity to 'shop around' among varieties of prisons and other criminal justice options, and it is unethical to allow non-government agents to profit under these circumstances.

Ericson et al suggest that the 'efficiency argument' is a difficult one to validate. Even if adequate and non-faulty research were available - and they insist that generally, it is not - they claim fuzzy goals and unspecified norms (specifically in the correctional context) make efficiency itself "inherently a matter of ideology. Advocates of privatization are thus left to argue efficiency in a rhetorical mode, and things get decided on the basis of what can be reasonably be counted: the cost in relation to the number served" (Ericson et al 1987:366).

Many other factors confuse such an evaluation. The possibility of proprietary firms 'skimming' the most profitable clients or opportunities in a given population

and leaving the government with a more difficult subset to deal with (Mullen 1985:72), and the practice of 'lowballing' (performing a service or producing a good at lower than normal cost in order to gain the privilege of doing so under contract) (McEntee 1985:7) also obfuscates the evaluation process. 'Quality' of service is a difficult characteristic to quantify, making it harder to judge whether lower costs result from greater efficiency or deteriorating quality (Starr 1987:129).

Hidden costs, such as contract preparation and administration, public monitoring of the private agency's performance, the possible use of public facilities and materials by the private agency (McEntee 1985:7) and the difficulty of isolating costs (Mullen 1985:81) further complicates the evaluation process.

The high social cost of layoffs within the government sector, the possibility of corruption, the premise that marginal expansion costs are lower in government, and 'cost plus' provisions in some privatization contracts make privatization ultimately more expensive than continued government provision and delivery of a product or service, argues Sapers (1987:7). Sapers cites other barriers to successful privatization, such as the possible elimination of universality, the demoralizing effect on government departments, dependence on private contractors, and the

likelihood that the political power of private organizations will increase unduly as a result of privatization (Sapers 1987:7-8).

The likelihood that public employee unions will resist strongly any private involvement is obvious. "Loss of turf" for public sector management and reduced power of public employee unions will inhibit an expanded role for the private sector (Mullen et al 1985:74).

CHAPTER V

PAROLE: AN OVERVIEW

Background

The word 'parole' has come to represent any of a number of forms of conditional release for prisoners released from confinement in a jail or penitentiary. 'Parole' comes from the French, and means "promise" or "word of honour" (Schmidt 1977:3; Clegg 1964:22). Miller suggests current usage of 'parole' is adapted from the French phrase "je donne ma parole", which translated means "I give my word" (1976:377). Parole was likely first used in a correctional context in 1847 by Samuel Howe, a Boston penal reformer (Dressler 1969:56).

There are many antecedents to the current formation of parole. Although many correctional historians acknowledge that the first full-fledged parole system was established after the opening of the Elmira Reformatory in New York in 1876 (Miller 1976:378; Newman 1968:35), the foundations for that system can be traced back at least to 1597. Since then, of course, the concept and practice of parole has undergone a significant evolution (for details of the history of parole, refer to the Appendix).

This chapter will focus on the structure and delivery of parole, and outline parole legislation. Due to the limits

of this thesis, the legislation review in this chapter will include only the Parole Act (1958). For an overview of current legislation (Corrections and Conditional Release Act, 1992), the reader is referred to the Appendix.

The Structure of Parole

Federal parole is an integral component of the Correctional Service of Canada, and works intimately with other components within the Correctional Service in the pursuit of CSC mandates. The CSC is responsible to the Solicitor General of Canada, and participates in the federal justice policy process of the Ministry Secretariat by virtue of the CSC Commissioner sitting on the Senior Policy Advisory Committee. The Correctional Service is responsible for the administration of court-imposed sentences of incarceration at least two years in length. This responsibility includes overseeing a variety of after-care services associated with parole.

Within the Correctional Service of Canada are five regions: Atlantic, Quebec, Ontario, Prairie (including the Northwest Territories), and Pacific (including the Yukon). Regional bureaucracies are responsible for corrections functions within each region. Together, the regions spent more than \$780 million in 1987-88 on adult corrections (includes custodial and non-custodial services) (Statistics Canada 1988:86).

Parole jurisdictions, within the five CSC regions, are further refined into Districts containing offices and sub-offices. The Pacific Region, for example, maintains 4 Districts with their accompanying parole offices, and 8 sub-offices. Area Managers oversee individual Districts and Office Managers who, in turn, supervise individual parole officers. Across Canada, more than 70 District and sub-offices are staffed.

Forms of Conditional Release

There are numerous forms of conditional release: temporary absences (both unescorted and escorted), day parole, full parole and mandatory supervision.¹ Temporary absences are usually the first form of release granted an inmate, used by CSC and NPB staff for a variety of medical, humanitarian, and rehabilitative reasons.

Day parole is a program that helps prepare offenders for their eventual return into the community under full parole or mandatory supervision. Day parolees are usually released from an institution to work, go to school, or

1. Discussion of conditional release policies refers to the Parole Act legislation in effect prior to November 1992, when the Corrections and Conditional Release Act was enacted. This thesis deals with conditional release policies of the 1980's, so reference to current legislation is not relevant to this discussion, although there are many similarities in the two Acts.

receive specialized treatment in the community. Offenders receiving a form of day parole will either report back to the releasing institution or a community residential centre (CRC) or community correctional centre (CCC). Typical day parole grants involve, in the case of CRC's or CCC's, leaving the facility each day to work or go to school, and returning each night by a specified time. An inmate on a day parole grant from a penitentiary may return nightly or just on weekends, as their particular program granted by the National Parole Board dictates.

Inmates are generally eligible to receive day parole at one-sixth of their sentence.² When an offender first reaches day parole eligibility, release (under the Parole Act) is automatically reviewed by the National Parole Board, although if denied release, an offender must wait six months before submitting another application.

Offenders graduate to full parole, subject to NPB decision-making and parole eligibility, when they present a viable release plan consisting of employment, educational or other demonstrable rehabilitative pursuits. Inmates granted full parole generally live with family, friends, other community supports, or in a CRC, and must have demonstrated the potential to successfully reintegrate to society.

2. For exceptions to this general rule, refer to the Parole Regulations.

Eligibility for full parole is one-third of the term of imprisonment imposed.

Release on mandatory supervision occurs at two-thirds of the sentence length. Prior to the enactment of the Corrections and Conditional Release Act (1992), a system of "earned remission" allowed an offender to "earn" one day for every two he or she abided by penitentiary rules and regulations. Most offenders not already on some form of conditional release were therefore released at the two-thirds point in their sentence.

It is pertinent to note here that some parole functions are not solely the responsibility of federal correctional parole staff. Much more discussion of this involvement will be presented in a later chapter, but suffice it to say that a targeted percentage of parole supervision is "contracted out" to private agencies and individuals. In addition, some "community assessments" (interviews and written assessments of community resources) are completed by non-government agents. These agencies may be non-profit or profit-oriented firms, but are predominantly non-profit, charitable organizations. Individuals acting on behalf of such agencies are contracted to perform functions according to the same standards of procedure and performance expected of federal parole officers. Ultimately, supervision responsibilities

remain with the Correctional Service of Canada, however, as supervisory signing authority rests with CSC Area Managers.

Parole Legislation

All persons responsible for any parole release or supervision functions are governed by the Parole Act, Parole Regulations, Prisons and Reformatories Act, Penitentiary Act, Penitentiary Regulations, and various policy and procedure manuals. (The Corrections and Conditional Release Act was given Royal Assent 18 June 1992, and proclaimed into law in Fall 1992. Upon enactment, the new Act replaced both the Parole Act and the Penitentiary Act). Following is a review of the pertinent sections of the Parole Act and Parole Regulations with a view to providing a framework for understanding the concept of conditional release and becoming familiar with the governing legislation. Because this thesis deals with policies and data from the decade of the 1980's, a review of the new Corrections and Conditional Release Act (1992) will not be undertaken in detail here.

The Parole Act establishes the National Parole Board and Provincial Parole Boards, and sets out their duties and powers (Secs. 3-12). The Act also sets out administrative requirements that must be met for conditional release, and prescribes the procedures used to deal with the detention of violent offenders (Sec. 15). Procedural matters concerning suspension or termination of parole is discussed (Secs. 16-

20), as are the authorities to release offenders on unescorted temporary absences (Sec. 21).

The Parole Regulations define the eligibility dates offenders have to pass before they are considered for release under full parole, day parole, and unescorted temporary absences (Secs. 5-13). A multitude of administrative and procedural details with regards to National Parole Board reviews and hearings are covered in Sections 14 to 19. Release on mandatory supervision carries with it a host of conditions imposed on the offender. Sections 19.1-19.4 outline these terms and conditions.

Offenders released on any grant must abide by the conditions of release. Where an offender is deemed by his parole officer to have contravened any of those conditions, the parole officer has the authority to recommend suspension and the subsequent termination or revocation of the release. Sections 20-22 review the post-suspension, post-termination, and post-revocation processes, addressing the presence of assistants (Sec. 20.1) and the re-examination of Board decisions (Sec. 22). Sections 23 and 24 specifies the number of Board members required to vote in any particular hearing. The remainder of the Parole Regulations (Secs. 27-37) deals with Provincial Parole Boards.

Parole Service Delivery

Parole/Case Management

Parole officers and institutional case management officers perform most parole functions. The professional teams, together with inmates anticipating parole, formulate individual program plans and provide casework supervision and services to inmates. In addition to counselling sessions with institutionalized offenders, the case management team analyzes other - psychiatric, psychological, institutional - sources of relevant information and develops viable release plans for inmates, which then become the responsibility of individual parole officers to implement and supervise.

The tools utilized by institutional and community parole agents to assess inmates applying for parole, and to formulate viable release plans, are varied and have evolved considerably in recent years. Although it is beyond the scope of this thesis to adequately detail all the assessment tools presently in use, the following brief discussion will introduce some of the standard instruments. For further details of specific assessment tools and policies and procedures, the reader is referred to CSC Case Management Manuals.

Providing guidance and coherence to the sentence administration of individuals sentenced to federal terms of imprisonment is the Integrated Sentence Management model.

The model distinguishes between the five phases of a sentence: orientation and assessment (initial evaluations and penitentiary placement); correctional treatment (program participation and clinical evaluations); case preparation; National Parole Board decision-making; and community supervision.

Integral to the cohesive management of an offender's sentence are a number of evaluations comprising the Case Management Strategy (CMS). Briefly, a detailed and structured CMS interview is administered to the inmate, covering the areas of 'offense pattern', 'school adjustment', 'vocational and residential adjustment', 'family attitudes', 'interpersonal relations', 'feelings', 'plans and problems', and objective background details. The coded responses are scored and result in an assignment to one of four treatment groups.

Following that a 'Force Field Analysis' is completed. This analysis allows the case management officer to identify the strengths and weaknesses of the inmate in 15 physiological, psychological, and sociological areas of concern. Up to four needs are prioritized out of the 15 areas. From the CMS interview, Force Field Analysis needs prioritization, and other available information, a Correctional Treatment Plan is formulated. The inmate's

educational, vocational, and emotional therapeutic program participation is guided by the results of these analyses.

Supervision of an offender on parole should also be determined by the results of the assessments noted above. It is important for offenders to establish and maintain sociological and psychological 'habits' which will hopefully assist them in averting further criminal activity. Paramount in the correctional process is parole, where efforts at 'successful' integration to society overtakes the more dominant punitive aspect of incarceration. Correctional Service managers and policy-makers believe that supervision programs based on the Correctional Treatment Plan will ensure the greatest opportunity at 'successful' reintegration to society.

The National Parole Board

The National Parole Board (NPB) is the exclusive decision-making body responsible for the release of parolees sentenced to terms of imprisonment of two years or more. The NPB, established under Section 3 of the Parole Act of 1958, now operates independent of the Correctional Service, although the Board is also within the jurisdiction of the Department of the Solicitor General. The NPB reports to Parliament through the Solicitor General and is comprised of not more than 36 national members, each of whom are

appointed 'at pleasure' for a period not exceeding ten years.

The Governor in Council may also appoint temporary members to act as members of the Board for a period not exceeding three years. They are appointed to hold office 'during good behaviour.' Other community individuals may be designated to sit as part of regional parole panels when making parole, day parole or temporary absence decisions with respect to inmates sentenced to life imprisonment as a minimum punishment, inmates in respect of whom a sentence of death has been commuted to life imprisonment, or inmates who have been sentenced to detention in a penitentiary for an indeterminate period.

In the decision-making process of the National Parole Board, a majority of members, sitting in Ottawa, constitutes a quorum. Section 6 of the Parole Act specifies that the Board has exclusive jurisdiction and absolute discretion to grant, refuse to grant or revoke parole. Limitations to the NPB's powers exist, though, as prescribed by the Parole Act and the Prisons and Reformatories Act. Sections 23 and 24 of the Parole Regulations specify the minimum number of NPB members required to vote in various circumstances.

When an inmate nears his legislative eligibility for release (usually in the preceding month), the required

number of NPB voting members hold a hearing at the inmate's institution and render a decision with respect to release of the individual as well as any accompanying program restrictions, or "conditions" of release.

The next chapter presents the economic, political and legislative data relevant to the thesis argument. Combined with the theoretical discussion in Chapters II and III, this provides the background for an analysis of the federal practice of privatized parole supervision.

CHAPTER VI
RESEARCH FINDINGS AND CONCLUSIONS

Introduction

Chapter III provides data on the increases in social programming expenditures resulting from increased demand and the adoption of Keynesian economics by the state. With respect to correctional operations, a similar pattern of escalating costs is very evident. Total capital and operating expenditures for federal corrections increased almost yearly from 1978-79 to 1987-88, from \$360,929,000 to \$781,134,000 (Table 3) respectively, a rise of 116% in less than a decade (Statistics Canada 1987-88, 1985-86, 1982-83).

Table 3: Total federal gov't expend. on corrections (current \$) and % per capita operating expenses

Year	Total	% operating
1978-79	360.929m	n/a
1979-80	355.450m	n/a
1980-81	430.044m	n/a
1981-82	499.858m	18.3
1982-83	568.111m	20.4
1983-84	665.501m	22.1
1984-85	753.862m	24.7
1985-86	744.472m	24.1
1986-87	775.008m	26.6
1987-88	781.134m	26.9

(Statistics Canada, 1982-3; 1985-6; 1987-8)

Per capita costs for federal correctional services were \$30.07 in 1989 (Correctional Service of Canada 1990), a figure

which has also risen significantly. In 1981-82 the per capita cost of federal corrections was \$18.30, rose yearly to \$24.72 in 1984-85, and increased to \$26.86 by 1987-88 (Statistics Canada 1987-88, 1985-86), an increase of almost 47% overall.

\$768.8 million was spent in the 1988-89 fiscal year on federal corrections. Of that, \$195.1 million (25.3%) was spent on case management, \$182.6 million (23.7%) on technical services, \$160.2 million (20.8) on inmate custody, \$83.8 million (10.9%) on education, training and employment of inmates, \$59.3 million (7.7%) on administration, \$48.4 million (6.3%) on health care, and 39.4 million (5.1%) on planning and management (Correctional Service of Canada 1990). Defined another way, of the total federal corrections budget about 76 percent was spent on custodial services, 16 percent on Headquarters, regional offices and general administration, 5 percent on community supervision, and the remaining 3 percent on the National Parole Board in 1988-89.

Community supervision costs have risen, however, despite maintaining relative stability proportionate to the overall budget. In 1987-88, \$36.9 million was spent on community supervision,¹ compared to only \$19.2 million in 1978-79, an increase of about 48%.

1. These budgets also include a variety of after-care programming.

Increased costs are evident within National Parole Board expenditures as well, especially during the last half of the decade. Expenses rose from \$11.3 million in 1981-82 to \$17.5 million in 1987-88.

It is within this context of increased national debt, higher taxes, greater social expectations, potentially shrinking social programs or services, and increased government spending that the pressure to reduce drastically the cost of institutional control of offenders is felt. Community alternatives therefore exert "an ever-greater fascination for criminal justice planners and policy makers" (Scull 1977:135). Besides direct privatization, other strategies contributing to the larger effort to attack the fiscal crisis, or which assist the pursuit of privatization, are presented as necessary responses to restrictive budgets and structural debt.

By the mid-1970's, the government made it clear the community was to assume a greater, more responsible role in dealing with crime and offenders. Admitting the inability of the federal correctional system to 'rehabilitate' offenders (Ottawa 1977:28), the Task Force on the Creation of an Integrated Canadian Corrections Service promoted the development of a stronger community base, writing "the growth of the private sector is attributed to the recognition that crime is essentially a community problem and that members of the community must be involved in order to find solutions" (Ottawa 1977:16,17).

In addition to this admission of ineffectiveness and a call for community involvement in the correctional process, the government promoted the private provision of correctional services as a less expensive alternative to imprisonment. Citing fiscal restraint and "overburdened, costly institutions", the Task Force on Program Review made several recommendations which purportedly responded to these economic concerns. Recommendations included a moratorium on new federal prison construction, sentencing guidelines to ensure zero growth in the total incarcerated population and mandatory consideration of community-based alternatives to incarceration, and increased funding for community-based corrections (Ottawa 1986:323,324).

Together, these reports represent a major shift in ideology. The federal government points to larger fiscal pressures, rising correctional costs, a lack of effectiveness in rehabilitating offenders, and the promotion of community responsibility in rehabilitation as major reasons for the move to adopt privatization strategies.

Restraint activities included efforts to make yearly reductions in the size of the federal public service. As indicated in Table 4, not only has the Correctional Service of Canada steadily lowered its staffing levels, but the entire federal civil service is substantially smaller than in most recent years (Table 5). Due to cut-backs mandated by the Treasury

Board, the CSC, among other departments, has trimmed its workforce. In 1985 the Treasury Board targeted person-year (PY) reductions for the CSC according to a five year plan. A 1% reduction was projected in each of the first 2 years, with at least a further 0.5% reduction expected in each of the last 3 years (Table 4).

Table 4: Treasury Board and CSC targets for PY reductions

Treasury Board	CSC
1985/86 - 11,105 (reference level)	
1986/87 - 10,994	1986/87 - 10,994 (=)
1987/88 - 10,884	1987/88 - 10,972 (+88)
1988/89 - 10,830	1988/89 - 10,812 (-18)
1989/90 - 10,776	1989/90 - 10,758 (-18)
1990/91 - 10,772	1990/91 - 10,704 (-68)

Statistics Canada 1987-88; 1985-86

Table 5: Size of federal government civil service (select yrs.)

1977 - 282,788
1978 - 279,207
1980 - 208,299
1984 - 224,026
1985 - 223,173
1987 - 214,930

In actuality, through innovations (federal-provincial agreements, privatization, etc.) and new initiatives, the CSC targeted even lower figures (Table 4). Actual person-years employed by the CSC in 1987-88 was 10,769, very similar to the

10,770 employed in 1985-86, although up somewhat from the 9,958 PY's utilized in 1982-83 (Statistics Canada 1987-88; 1985-86; 1982-83).

In the larger scheme of things, the level of CSC's financial commitment to privatization has increased significantly in the last decade. In 1985-86, approximately \$60 million in contracting-out arrangements were made with the private sector for a wide variety of services, whereas the 1986-87 figure was about \$81.5 million. Some services currently provided under contract to the C.S.C. are: evaluation and planning, legal services, staff training and development, technical services (repairs and renovations), food services, health and medical treatment, post-release employment, alcohol and drug treatment programming, sex offender treatment, psychotherapy, life skills training, community residential centres and parole supervision.

In general, C.S.C. contracts with non-profit private agencies primarily those services that deal with the rehabilitation of offenders. Included in this category are programs assisting inmates upon release, supervision and other control-type functions, and the operation of residential centres. Contracting with for-profit agencies continues to be used primarily for programs and services which are operational in nature, such as technical and administrative services.

The practice of "contracting out" community supervision of federally-sentenced offenders has increased most obviously in the 1980's. Data is available to varying degrees and with varying clarity in different regions of Canada. However, the writer asserts that the body of available material indicates that the federal government is increasingly interested in divesting itself of the direct responsibility for the supervision of federal parolees.

Nation-wide, the number of contracts formed with private agencies and provincial governments to supervise parolees increased from 73 in the 1982-83 fiscal year to 98 in 1988-89 (Table 6). The value of these contracts increased almost fourfold during the same years: \$1,295,420 in 1982-83 to \$5,099,067 in 1988-89. In terms of the number of 'person-months' of supervision represented, Table 6 shows almost a yearly increase: in 1982-83, 9330; in 1988-89, 13592.

In the Pacific Region, the number of supervision contracts increased from six worth \$126,000 in 1982-83, to 18 worth just under \$600,000 in 1988-89. Included in these figures is an Exchange of Service Agreement contract with the British Columbia Attorney General's office covering the years from 1986 to 1996. The value of the contract is \$2.55 million (Table 6), the bulk of which covers the provision of bedspace in provincial jails for federal inmates.

Table 6: Federal Parole supervision contracts, by region and year (1982/83-1988/89)

	ATLANTIC	QUEBEC	ONTARIO	PRAIRIES	PACIFIC	TOTAL
82-83						
# OF CONTRACTS	6	13	19	29	6	73
VALUE OF CONTRACT	\$158,378.25	\$198,130.75	\$301,631.50	\$511,254.53	\$126,025.25	\$1,295,420.28
PERSON-MONTHS OF SUPERVISION	1097	1124	2326	3760	1023	9330
83-84						
# OF CONTRACTS	6	4	18	22	6	56
VALUE OF CONTRACT	\$210,455.26	\$213,420.77	\$373,124.29	\$540,977.71	\$131,420.42	\$1,469,398.45
PERSON-MONTHS OF SUPERVISION	1435	1087	2460	3682	991	9655
84-85						
# OF CONTRACTS	6	3	21	32	12	74
VALUE OF CONTRACT	\$262,272.56	\$238,749.82	\$412,741.30	\$623,208.22	\$150,469.35	\$1,687,441.25
PERSON-MONTHS OF SUPERVISION	1528	1175	2583	4049	930	10265
85-86						
# OF CONTRACTS	7	12	21	37	18	95
VALUE OF CONTRACT	\$210,669.44	\$244,743.38	\$424,580.61	\$637,383.87	\$168,798.57	\$1,686,175.87
PERSON-MONTHS OF SUPERVISION	1354	922	2613	4271	897	10057
86-87						
# OF CONTRACTS	10	12	22	32	18	94
VALUE OF CONTRACT	\$252,293.14	\$359,791.82	\$1,409,468.64	\$582,468.80	\$193,561.36	\$2,797,583.76
PERSON-MONTHS OF SUPERVISION	1324	1339	4064	3772	1215	11714
87-88						
# OF CONTRACTS	6	16	23	34	16	95
VALUE OF CONTRACT	\$318,250.32	\$873,810.94	\$603,166.07	\$297,195.93	\$441,542.03	\$2,533,965.29
PERSON-MONTHS OF SUPERVISION	1698	5058	4275	1781	2185	14997
88-89						
# OF CONTRACTS	6	13	24	37	18	98
VALUE OF CONTRACT	\$333,886.95	\$865,402.39	\$857,206.44	\$2,444,138.63	\$598,432.65	\$5,099,067.06
PERSON-MONTHS OF SUPERVISION	1621	3159	5323	2228	1261	13592

*Prairies 87-88 excludes Alberta Exchange of Services

In fact, the extent of contracted parole supervision is a matter of policy: the Senior Management Committee of the CSC targeted 30 percent of all conditional releases across Canada to be supervised by private agencies in 1989. In the Pacific Region (British Columbia and Yukon) 22 percent was the targeted figure, although the actual degree of privatized parole supervision is much higher in some areas of the region.

These contracts for "community supervision" also include other responsibilities such as community assessments and supervision of inmates on temporary absences in the community. Therefore, precise numbers for supervision cases are not available, and person-months of supervision are estimates.

By contracting to non-government agencies for supervision of federal parolees, the federal government apparently releases itself of any liability for actions performed on its behalf by agencies properly the subject of a contract with the federal government. Paragraph 5.1 of Appendix "A" of the "General Conditions" portion of the standard contract utilized by the federal government when contracting to private agencies states:

"The Contractor shall indemnify and save harmless Her Majesty and the Minister from and against all claims, losses, damages, costs, expenses, actions and other proceedings, made, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner based upon, occasioned by or attributable to any injury to or death of a person or damage to or loss of property arising from any willful or negligent act, omission or delay on the

part of the Contractor, the Contractor's servants or agents in performing the work or as a result of the work" (cf. Appendix "A" of the General Conditions section of Standard Contract p.2).

The legal ramifications of the clause, "...from any willful or negligent act, omission or delay ... in performing the work or as a result of the work" may be unclear due to a dearth of case law, but the intent of the wording suggests that the desire of the federal government is to distance itself from any actions which may threaten its legitimacy or the propriety of its actions. By so doing, it avoids being the target of undesirable legal confrontations, escapes the inevitable financial responsibilities accompanying such challenges, and diverts attention from the government and Public Service representatives, to private agencies.

In addition to increased use of volunteer-based, not-for-profit agencies contracted to supervise parolees and perform other overt control functions within the correctional system, a number of legislative and policy changes have contributed to the overall effort to transfer traditionally government-held responsibilities for offender management to the private sector. These legislative and policy changes (see below) have been pursued either to assist in the development of a privatization strategy or, purportedly, as part of a general effort to attack the 'fiscal crisis' (see, generally, the Report to the Task Force on Program Review - 1986).

For instance, in July 1986 the government of Canada passed Bill C-67, "an Act to amend the Parole Act and the Penitentiary Act". Bill C-67 made mandatory the review of day parole at eligibility for inmates serving a sentence of imprisonment of two years or more. Prior to 1986, day parole was only reviewed when an inmate formally applied. In addition, full parole is automatically reviewed with day parole if the offender's sentence is three years or less. This has the effect of advancing day and full parole review for many inmates. While automatic reviews do not necessarily translate to earlier releases, that tendency is inherently probable. This policy of automatic review is likely an "off-set" for the detention provisions of Bill C-68, which makes possible the detention of more dangerous offenders. By neutralizing the increased use of penal resources resulting from the detention provisions, automatic reviews assist in the reduction of corrections resources.

"Accelerated release strategies" have been utilized to hasten the release of offenders currently incarcerated. One of these strategies involves accelerating the "cascading" (transferring inmates from higher to lower security in successive stages) of non-violent inmates to lower security institutions regardless of the length of their sentence. Not only does such a practice lower the average cost per year of incarcerating offenders, but they are much more likely to be considered for some form of conditional release earlier in their sentence than if they were incarcerated in a higher security institution. In

fact, some forms of release (temporary absences and day parole) are not permitted from medium and maximum security institutions.

The Correctional Service of Canada has attempted to locate and secure additional minimum security facilities for federal offenders.² To date, several plans to establish such a facility in the Lower Mainland and the Interior of British Columbia have been unsuccessful. By accomodating more offenders within lower security institutions, however, the overall average cost of incarcerating inmates will be reduced.

The savings of having an offender on parole as opposed to incarcerating them can not be underestimated. For instance, an offender incarcerated in a maximum security institution costs approximately \$61,744 per year; a medium security inmate costs about \$39,512 yearly; and a minimum security inmate costs about \$31,921 per year. On average, incarcerating an offender in the federal correctional system costs approximately \$46,000 annually (Correctional Service of Canada 1990).

By contrast, an offender serving this sentence in the community (on parole) costs the government only about \$6,906 per year (Correctional Service of Canada 1990), approximately ten percent of the cost of incarceration (Ottawa 1986:322). From a purely economic standpoint, then, the savings to the government

2. The annual CSC report "Coporate Operational Plan", sets out accomodation targets, among other things.

of having an offender on parole as opposed to incarcerating him or her is most obvious. Undoubtedly, in a climate of economic stress the rationale to emphasize less expensive options of "doing justice" is promoted as a responsible alternative to incarceration.

In this case, the obvious option is conditional release. Even simple mathematics demonstrates the point. If all 13,000 male inmates in federal correctional institutions reach parole one month earlier, the approximate savings is close to \$50 million. Of course, they are not all eligible for parole at any given time but the point is clear: if an offender can serve more time in the community relative to the part of the sentence served in prison, and do so without jeopardizing the safety of society, the Correctional Service - therefore the federal government - reduces its burden of fiscal responsibility.

In the 1990-91 fiscal year, several attempts have been made in the Pacific Region to expedite the release of offenders serving aggregate sentences of 4 years or less for non-violent offenses. "Fast-trackers", as they are called, have attracted the attention of CSC and NPB staff, primarily because their release would not normally constitute an undue risk to the community, but also because they occupy badly needed bedspace in medium and minimum security institutions. Accordingly, several "sweeps" (thorough reviews of an entire penitentiary's inmate population in an effort to locate offenders who may be suitable, manageable-

risk candidates for release to a community correctional program) of institutions in the Pacific Region have resulted in groups of inmates being released on day or full parole.

While the release, or grant rates of the National Parole Board have been relatively stable in recent years for day and full parole decisions (Table 7), an increasing number of decisions have to be made. This is most noticeable comparing pre-Bill C-67 releases with post-Bill C-67 releases.

In the case of day parole decisions, the NPB grant rate has fluctuated only slightly from 1979/80 to the present, staying between 60-65% for all but one of the last 11 years (Table 7). However, in 1978/79 the number of releases on day parole was 2830, while in 1989/90 4113 offenders were granted day parole. In the four years prior to Bill C-67 the average number of offenders granted day parole was 3393. That figure jumps drastically in the four years after Bill c-67 was passed, averaging 4313 day parole releases, a 27 percent increase.

Full parole releases increased as well since Bill C-67 was enacted (Table 8). In the four years prior to Bill C-67 an average of 1713 offenders were granted full parole. Since Bill C-67 was passed, an average of 1992 offenders were released on full parole. This amounts to an increase of about 16 percent, despite a slight decrease in NPB grant rates for full parole decisions during the same period.

Table 7: NPB grant rates - Day and Full Parole

<u>Year</u>	<u>Day Parole</u>	<u>Full Parole</u>
1974/75	56%	44%
1975/76	55%	32%
1976/77	55%	30%
1977/78	60%	36%
1978/79	69%	39%
1979/80	60%	38%
1980/81	61%	39%
1981/82	66%	41%
1982/83	62%	37%
1983/84	65%	39%
1984/85	61%	38%
1985/86	60%	32%
1986/87	68%	36%
1987/88	64%	36%
1988/89	62%	30%

Solicitor General Annual Reports (1976/77 to 1989/90)

Table 8 Number of conditional releases - Day and Full Parole

<u>Year</u>	<u>Full Parole</u>	<u>Day Parole</u>
1974/75	1575	1709
1975/76	1180	1568
1976/77	1177	1767
1977/78	1539	2020
1978/79	1765	2830
1979/80	1482	2654
1980/81	1374	2787
1981/82	1627	3481
1982/83	1697	3233
1983/84	1878	3617
1984/85	1685	3315
1985/86	1595	3407
1986/87	2097	4559
1987/88	2240	4453
1988/89	1782	4127
1989/90	1851	4113

Solicitor General Annual Reports (1976/77 to 1990/91)

Other types of decisions also affect the number of offenders on conditional release. Once granted parole, an offender's release can be restricted and monitored by the imposition of "special conditions", or regulations governing certain aspects of an offender's behaviour. For instance, in the case of an offender serving a sentence for assault, the cause of which may be rooted in feelings of inferiority, inadequate social skills, and excessive use of intoxicants, an appropriate set of special conditions could include mandatory psychological counselling for a specified period, and attendance at community substance abuse awareness and/or treatment groups. Violation of a special condition is normally severe enough to warrant immediate suspension of the individual's parole and a return to incarceration until a National Parole Board decision concerning release can be made.

Recently (fall 1991), the imposition of special conditions on conditional release has been discouraged (CSC policy memo). CSC parole staff are encouraged not to recommend the imposition of such conditions, and NPB members have reduced their use when granting an offender conditional release. Instead, parole officers are required to use "letters of special instruction" to impose restrictions and program attendance on offenders, and must request that the Parole Board convert such "letters" to special conditions after 60 days, or discontinue their use. Effectively, this restriction reduces the ability of CSC parole staff to

suspend a release and recommend its termination or revocation based on contraventions of safeguards and technical violations. While this may appear a reasonable attempt to avoid returning offenders to prison for minor technical violations, it can also have the effect of preventing the return of 'borderline' offenders to a penitentiary because of the lack of coercive tools. To the experienced and skilled supervisor, even minor behavioural violations can indicate much more serious and potentially threatening behaviour. When these behavioural aberrations violate a special condition, immediate suspension can result. In the absence of special conditions, however, such minor abnormalities can be more difficult to safely deal with.

By reducing the number of special conditions offenders have to adhere to, this policy places priority on keeping offenders in the community over reincarcerating them when their behaviour warrants. Obviously, the intent of such a policy is not to place the community at risk unnecessarily or at all costs, but it is apparent that this relatively recent move will stress the boundaries of currently acceptable supervision practices. The danger of doing so is that the community may be at higher risk from offenders who are freed from some restrictions and obligations that helped to monitor them previously.

The arguments presented above, taken together, lend credence to the thesis that the federal government is attempting to respond to fiscal pressures by rationalizing resources and

altering correctional policies. By targeting cost-reductions in specific areas and within particular departments, the federal government attempts to reduce the cost of government operations while maintaining control of the criminal sub-population. The government does so by whatever means it considers efficacious and without threatening it's legitimacy.

As Lowman and Menzies (1986), Garland (1990), Chan and Ericson (1981), and others have articulated, however, despite the seemingly urgent need to respond to the dynamics of national indebtedness, politico-ideological forces also impact on policies of decarceration, privatization, and community involvement in the area of corrections.

Garland (1990:188), for instance, describes the administration of punishment as a "complex cultural artefact". In addition to the typical understanding of punishment as a legal-administrative entity, he states "punishment is an expression of state power, a statement of collective morality, a vehicle for emotional expression, an economically conditioned social policy, an embodiment of social sensibilities, and a set of symbols which display a cultural ethos and help create a social identity" (1990:287).

Despite rhetoric to the contrary, privatization of parole supervision is not purely a necessary response to the fiscal forces of inflationary costs and national indebtedness, not just

a morally appropriate solution to the inadequacies of the traditional penal system.

Discussion

At the most basic level, this thesis provides insight into government decision-making and policy formulation. That is to say there is, inevitably, fundamental ideological and theoretical purpose underlying much government policy. This model of analysis purports to explain relatively recent policy shifts within Canadian federal government decision-making with respect to privatization, especially within the correctional sphere.

Specifically, the rapid increase in the number and value of privatization contracts for parole supervision in the last decade begs explanation. This theoretical context provides such explanation, and accounts for the more general dramatic shift towards privatized delivery of criminal justice services.

As outlined in Chapters II and III, the political-economic social control perspective proposes that the state must attend to its three primary functions: control of deleterious subgroups within the larger population; ensure that the conditions for a steady and advantageous rate of accumulation is possible for market capitalism; and maintain some degree of harmony, in order to support the legitimacy of its rule.

The state has assumed a larger proportion of responsibility for the control of deviant sub-groups since the mid-19th century, prior to which municipal relief and charitable organizations and church groups were primarily responsible to provide for criminals, mentally disordered, poor, and infirmed. Presently, the state has exclusive responsibility for the incarceration and control of criminals and, to a lesser degree, other subgroups.

The 20th century has witnessed a dramatic rise in the size and influence of the control bureaucracy. Reviewing correctional budgets of the last 20 or 30 years will attest to that fact. Costs have inflated exponentially, the size of the public sector has increased, and the degree of state control over the lives of criminal offenders has grown during this period.

Alongside the rise of the control bureaucracy, the state increased its intervention in all manner of financial and social issues. Of particular note is the incredible growth of legislation governing socially disadvantaged individuals (Johnson 1987:4-5; Canada Year Book 1988:6-7). Legislation protecting the unemployed and unemployable, ill, disabled and seniors is extensive. Canada's social safety net is well ensconced.

As illustrated, however, the effects of the parallel moves to rapidly increase state expenditures in social programming, and the quick expansion of the control apparatus of the state meant that Canada's national debt increased from practically nothing in

the late 1960's, to the current \$400 billion range. The costs of meeting programming obligations exceeds yearly revenues by about \$30 billion each year. Service charges on the accumulating debt are as large an expenditure as any other program consideration.

The resulting fiscal crisis has spurred governments everywhere (federal and provincial) to reconsider current spending patterns and evaluate ways to cut costs. With many program options, reduced funding by the federal government means other levels of government increase their burden of responsibility, or non-government agencies obligate themselves to do so. Alternatively, needs are not met, as funding is inadequate to maintain specific programs.

However, peculiar to the area of corrections is the fact that the state has the exclusive mandate to incarcerate and punish offenders. Delegation of this mandate is not ideologically feasible in the current Canadian context, so the federal government is burdened with underwriting the full cost of correctional operations.

As costs rise, aggravating the larger fiscal situation, other means of maintaining control over offenders without suffering from questions of legitimacy, are sought. As evidenced in Chapter III and V, contracted parole supervision is presented as a way of achieving these ends. The federal government continues to pay for the supervision and control of offenders,

but appears to reduce spending on the civil service. In fact, the actual number of federal employees is reduced, lending at least the perception that downsizing is occurring.

As a corollary, the practice of privatizing parole supervision affords government an opportunity to reduce the size and force of public sector unions. Any contracting arrangement with private agencies must, of course, conform to existing administrative and legal requirements. That is to say, the same standards of responsibility, accountability, fairness and reporting apply equally to government and private agencies alike. However, employee rights with respect to permanency, remuneration and benefits, workloads and other employer/employee issues, within the context of privatization, are outside the scrutiny of public sector unions.

With these advantages in mind, the extent to which current arrangements for controlling offenders can, or will be sustained is a matter of debate. Certainly, further cost-cutting measures will be sought. Innovative ways to incarcerate, to parole and to supervise, to construct facilities and fund programs, in short to do the business of corrections, will continue to be the pursuit of correctional planners and administrators.

The advantages of examining the recent shift to privatized delivery of parole supervision and other social control functions in the context of the theoretical framework outlined above, are

multiple. For instance, in this context the federal government is viewed as a purposeful, ideologically-driven institution which implements public policy based on its efficacy and "fit" with the national strategy. Without such a framework individual policy shifts are subject to random, independant analyses, and the relationships between individual policies and related legislations are left unexplored. Hence, this theoretical framework promotes the understanding of policy development in all aspects of public life, not just that which occurs within the correctional sphere.

In addition, this framework allows for an historical analysis of federal government policy. As noted in Chapter II, successive shifts in the way offenders and other marginalized people are dealt with must be interpreted as an ongoing phenomenon, one very much influenced by the ideological exercise of power and control. To examine government policy without reference to historical antecedents and trends is to portray an incomplete picture of the nature and fundamental reasons for that policy.

Third, this thesis provides a basis for assessing official government statements of new policy or changes in existing policy against theoretical explanations for such policy. When the basic theoretical assumptions of the social control perspective are understood, such a comparison facilitates the use of critical

tools of assessment and guides attempts to truly understand the development of government policy.

Another strength of this approach is its level of analysis. This particular approach offers general explanatory power, and is not limited to an evaluation of parole supervision, as such. Theories of social control examine government behaviour and decision-making in the context of self-maintenance, power/control, and fiscal management issues. Instead of focusing on particular decisions and policy shifts of government and attempting to explain them in isolation, social control theory presents a macro-approach to public policy decision-making, then applies this framework to inform discussion on particular outcomes of general policy.

In summary then, this thesis argues that a dramatic increase in the amount of privatized (contracted) parole supervision has occurred within the Canadian corrections system during the 1980's. A review of the history of Canada's social welfare development and the parallel path of the nation's surplus/deficit accounts is provided. It is argued that Canada is suffering from a 'fiscal crisis' of unprecedented proportions and that the resulting economic pressures, along with other forces, factor into decisions about programming.

Further, there has occurred a fundamental shift in fiscal and monetary policy. Whereas Keynesian economic policies guided

government public policy decisions from the 1940's on, more recently monetarism has assumed the dominant role. The federal government has endeavoured to abide by monetarist economics in that the size of the federal workforce has been reduced, direct expenditures to government programs and employees are cut back, market forces are given freer reign, and efforts are made to reduce the size of the national debt.

Pursuit of this strategy occurs alongside the need to maintain control over deviant subgroups as well as engender public support for existing government hierarchy. Capitalizing on public concern over the national debt, the federal government has focused much of its energies on pursuing strategies that appear to reduce the size of the public service while purportedly decreasing the direct outlay of expenditures to federal government programs. "Privatized, dispersed, non-segregative control may allow more (if not more effective) controls to be applied and more people to be brought under control, while the state reproduces its legitimacy by appearing benign if not benevolent" (Chan and Ericson 1981:21).

These efforts are ideologically driven, and not pursued solely as a result of fiscal imperatives. Despite the apparent urgency of Canada's debt situation, Chan and Ericson (1981), Lowman and Menzies (1986), and others remind us that political-ideological elements are also important when assessing policy shifts in the correctional sphere.

Chan and Ericson (1981:38), while providing some evidence supporting the "economic origin of decarceration as a government policy", suggest also that the community corrections movement has not supplanted the use of incarceration but supplemented carceral options (p.39). They suggest that policies facilitating a move to community corrections may, in fact, be as expensive as incarceration, given the tendency not to reduce the level of use of imprisonment even when community alternatives are found. In their analysis, this consequence of the community corrections reform movement is quite different from its original intention, which was, purportedly (at least in the move to privatization in Canadian federal corrections), to encourage community involvement in the rehabilitation and reintegration of offenders and to reduce correctional costs (Ottawa 1977:17,46). As Chan (1992:4) writes in her recent, insightful account, Doing Less Time, "reforms are not to be taken at face value; they do not necessarily lead to progress: often they can lead to further repression."

The purpose of this thesis is not to mathematically evaluate the relative costs and benefits of a particular privatization program, nor to comment on the appropriateness of increased contracted parole supervision. This thesis contends that a combination of economic, political and ideological factors influence public policy decision-making. Shifts in policy, while often supported by the rhetoric of humanitarian-inspired reform

and economic responsibility, are also influenced by other factors. To accept the rhetoric of the state without critical appraisal and recognition of other influential factors, is unjustified.

Theories of social control are thereby able to critically inform the reader on a host of policy debates, irrespective of genre. The degree of "fit" of any particular application of this theoretical framework is instrumental in further buttressing the theory's general explanatory value, and in revealing it's shortcomings.

It is difficult to estimate to what degree parole supervision and other community functions will be contracted out and whether new equilibriums will be established. Whether this rationalization will affect contracting out policies in the long term is not yet known. It is likely, however, that the policy shifts outlined in this thesis will continue to develop momentum, despite occassional interuptions similiar to those occurring now. It is clear from the data provided that the rise in contracted parole supervision is dramatic, is not incidental, and clearly runs parallel to increasing concern over and efforts to reduce the burgeoning debt problem in this country. It is also apparent that fiscal pressures are not solely responsible for this shift, as ideological forces impact significantly on public policy decision-making.

Accompanying the mathematical argument is an illustration of the philosophical goals of the conservative agenda evident in Canada in the decade of the 1980's. Informed by monetarist thinking, the conservative platform includes reducing the size of the civil service and the power of its representative bargaining units, decreasing federal aid to needy subgroups, lessening the influence of the state in the market place, and reducing the size of the national debt.

As stated above, the theoretical framework used to explain the federal government's shift towards increased privatization in the correctional sphere is likely to be of utility when analyzing other facets of public policy. This is particularly true when discussing social welfare issues. For instance, this general theoretical formulation is adopted to analyze fundamental policy shifts in the areas of deinstitutionalization of mentally handicapped persons and the "insane"; the treatment of elderly, and others.

Limitations of thesis

As noted in the introductory chapter, there are several limitations to use of the contract data. One limitation is the lumping together of financial information on contracts to private, non-profit organizations, making the distinction between funds intended for community supervision and other tasks difficult to ascertain with any precision. In addition, individual private agencies and their provincial organizations

(where applicable) appear to lack complete, credible historical records of funding as it relates to parole supervision.

Therefore, one's ability to track funding at the lowest level (consumer agency) is severely curtailed, and independent verification of "systems" data is not possible. Limited data sources also restricts the time frame of this analysis to the 1980's, although there is no precise start or end date for the data. This makes a precise analysis of trends in contracted parole supervision extremely difficult.

Another complicating factor in assessing the degree of applicability of this theoretical framework is the increasing attention focused on Canada's fiscal situation. In part, the move to increase funding for private parole supervision is a function of increased costs everywhere and corresponding cost-cutting measures by the federal government. The assumption is made (Chapter IV) that private enterprise is better able to perform designated tasks for relatively less expense.³ In fact, pro-privatization literature's cornerstone argument advocates privatization as a cost reduction strategy.

However, a government may seize times of fiscal uncertainty and capitalize on widespread concerns about cost-effectiveness to promote its ideological goals, especially those of reducing the

3. That assumption is not truly evaluated in this thesis, and is quite difficult to support or refute due to many "hidden" cost factors.

federal public service and limiting the burden of accountability for the control of offenders under sentence. This is so despite the fact that "cost-cutting" is only a rationalization for the public policy shift towards privatization, and cannot justifiably be used as the primary reason for such a shift.

The recession North America is currently wallowing in also complicates this analysis. It is proposed that the shifts in policy enumerated above would have occurred in any case, regardless of the recessionary or inflationary nature of the economy. However, the federal government can justify expenditure reductions and various downsizing exercises by pointing to the need to reduce government spending in light of economic difficulties. While the effects of the policies are the same, their rationalization must not be confused.

Another obstacle to a clearer picture of the increasing resort to privatized parole supervision is a recent nationwide policy that rationalized correctional operations. In 1990 certain functions long performed by parole officers were transferred to institutional case managers. As a result, parole managers felt forced to retrench and reassume more parole supervision. By doing so, existing person-years were less threatened, and the redeployment of individuals was less severe. This meant that a temporary moratorium on the transfer of supervision cases to private agencies had to occur. As of late 1991 and well into 1992, this retrenchment continues. Ironically, while this

rationalization process obfuscates somewhat the analysis within this thesis, it likely is a function of the larger struggle to respond to fiscal pressures in the economy as a whole, while pursuing a conservative political agenda.

Suggestions for Further Research

Further research should explain more fully the relationship between conservative government ideology and its impact on issues of privatization. For instance, literature is available on the rise of the "new right" in western industrialized nations. Are all governments espousing conservative political philosophy attracted to policies of privatization and decreasing direct state control over marginalized individuals in their respective societies? To what extent do governments with conservative agendas differ in their policy formulations from governments with less conservative leanings?

Is the general move to privatization an inexorable end, regardless of political persuasion? Perhaps the fiscal crises experienced by so many western democracies will inevitably force policy-makers of all political stripes to achieve substantial cost savings and, by promoting the so-called cost-effectiveness of private enterprise, governments will so privatize. Is cost-effectiveness only a convenient cloak with which to pursue wholesale privatization? The development of an economic model with a relative cost appraisal of privatized versus state-run

criminal justice services would be invaluable in assessing the degree to which fiscal factors have an impact on policy shifts.

Of additional interest is the public's attitude towards privatization, particularly where it affects the liberty and security of marginalized individuals. Does the Canadian public passively accept that contracted parole supervision is a necessary and harmless ingredient in the larger scheme to divest government of certain financial and legal responsibilities? To what extent will Canadian society allow private interests to participate in the affairs historically within the mandate of the state? Is the public mood changing in this regard? Is Canada moving towards the model adopted in the United States, where increasing numbers of detention facilities (immigration, juvenile) are built, funded, and run by proprietary agencies? An analysis of these and other attitudinal questions will broaden our understanding of the issues surrounding privatization.

A study on the judicial constraints to privatization in Canada would be of additional use, as well. Chapter IV outlines arguments for and against privatization, including philosophical justifications against privatization. It is likely that judicial interpretation will be required, as legislators and policy-makers push existing norms of government accountability and responsibilities to new levels. It is possible that Canadian society is not ready for greater intrusion of private agencies into the correctional sphere. Long held sacrosanct is the

standard that persons committing crimes against the state should be punished and "treated" by the state. Determining the legal limits to contracting out will be an invaluable study in the Canadian understanding of privatization.

It is hoped that this thesis assists in the understanding of the recent move to increased privatization of parole supervision and ancilliary services. The theoretical framework, historical analysis of correctional operations in Canada, and supporting data suggest that this significant policy shift is a vital component of a larger strategy to respond to the fiscal crisis and conform to political-ideological agendas without threatening the legitimacy of the state.

Regardless of perceived and real merits of a policy of privatization, public scrutiny of policy shifts toward privatization of government services is of extreme importance. Failure to analyze and respond to such moves may result in the abandonment of long-held philosophical standards. In turn, this will impact critically on the way the nation's criminal offenders are dealt with.

This thesis contends that the recent move to privatize certain components of the correctional process to non-government organizations will continue and increase in scope in the years to come. Specifically, contracted parole supervision will increase consistently, as the government seeks ways of dealing with

ever-increasing numbers of parolees. The current commitment to downsize government and the ideological orientation toward market intervention in public life will sustain the government's desire to involve more proprietary agencies in doing correctional work.

APPENDIX

AN HISTORICAL ACCOUNT OF PAROLE

As noted in Chapter V, Canada's parole system differs markedly from its origins in England, Ireland and Australia. Although the concept of parole in North America is generally thought of as dating to the latter quarter of the nineteenth century, the foundations for our parole system originate in the late 1500's in England. At that time unemployment was widespread and the English labour market was overcrowded. Taxes were high (Newman 1968:18) and the English government desperately needed to alleviate itself of some of its economic burdens.

In 1597 an English law was passed which provided for the banishment of individuals deemed to be dangerous. In addition, the King of England approved a proposal to grant reprieves and stays of execution to convicted felons who were physically fit and able to be employed in service (Parker 1975:14).

'Transportation' - the practice of removing banished individuals from a state and transporting them by ship to a foreign land - to Virginia and other east coast American colonies began early in the seventeenth century (Parker 1975:14; Newman 1968:19). It is estimated that between 50,000-100,000 convicts were transported to the shores of Virginia (Dressler 1969:57) before the Revolutionary War and

the vigorous protestations of the free colonists in Virginia halted transportation to America (Newman 1968:21; Parker 1975:16).

During the early days of transportation, the English government paid transport contractors a fee for each prisoner shipped to a convict settlement. Monetary payment was halted in 1717, however, and contractors instead were allowed rights to the prisoner's labour for the length of the sentence. Once felons arrived in the convict colonies, the shipmaster transferred their "property in service" agreements to free colonists by selling their services to the highest bidder. Convicts were then referred to as "indentured servants," and the English government took no further interest in the convict unless he returned to England prior to the expiration of his sentence (Newman 1968:19-20).

After transportation to America was halted, the English government transported a contingent of prisoners to Africa. The use of this destination was short-lived, however, because most convicts transported to Africa were killed by the extreme climate and fatal diseases of the continent (Dressler 1969:58).

In 1787 the English government decided to send convicts to newly discovered regions of Australia, which soon became

the focal point for transportations from England for the following 80 years (Newman 1968:21). Barry (1958:36) even suggests the Australian Commonwealth began inauspiciously as a transportation centre. From 1787 to 1867 convicts were transported to various parts of Australia.

In 1790 a special enabling act gave governors of penal settlements the power to remit the sentences of transported prisoners (Newman 1968:22). Due to the enabling act, the first governor of Australia gave absolute pardons to convicts whose conduct and work records indicated they were worthy to receive a grant of land. Later, absolute pardons gave way to a new form of conditional pardon: the "ticket-of-leave" system (Parker 1975:16).

A 'ticket-of-leave' was "merely a declaration signed by the governor or his secretary, dispensing a convict from attendance at government work and enabling him, on condition of supporting himself, to seek employment within a specified district" (Newman 1968:22).

The 'ticket-of-leave' is recognized as a prominent forerunner to modern notions of parole, as release under 'ticket-of-leave' was conditional "during good behaviour or until His Excellency's further pleasure shall be made known" (Dressler 1969:61). One significant difference from current parole practice is that under the early 'ticket-of-leave'

systems no provisions were made for supervision of the convict by the government or a representative of the state (Parker 1975:17).

Development of the 'ticket-of-leave' system occurred in stages. Prior to 1811 'tickets-of-leave' were granted freely to convicts for good conduct, meritorious service, or for the purpose of marriage. Thereafter, prisoners were required to serve specific periods of time in confinement before being eligible to receive a 'ticket-of-leave'. By 1821 a regular scale and standardized policy existed to regulate the period of time served prior to release (Parker 1975:17).

These modifications were not sufficient to appease critics of the 'ticket-of-leave' system, however. A great deal of criticism from free colonists in Australia who objected to the use of their colonies as dumping grounds for criminals sensitized the English government towards possible abuses and defects of the transportation and 'ticket-of-leave' systems. On behalf of the Society for the Improvement of Prison Discipline, Alexander Maconochie was sent from England to investigate the penal system in Australia (Barry 1958:42).

Maconochie's report, published in 1837, was very critical of the often brutal and capricious nature of punishment in the convict/penal colonies (Barry 1958:42).

Although severely criticized by leading public officials for his report (Barry 1958:42), Maconochie was eventually installed as superintendent of a penal colony on Norfolk Island. It was there that many of his reform proposals were initiated, the most significant of which was implementation of the "mark system."

Because Maconochie was convinced that the primary object of criminal punishment should be the reformation of the prisoner, and the "time required for a prisoner to achieve the self-discipline necessary to make him a useful and law-abiding citizen" (Barry 1958:74) was individually determined, Maconochie felt terms of imprisonment should be indefinite. Criminal punishments should consist of "task" and not "time sentences." If a sentence was represented by a fixed number of "marks," a convict could earn his freedom by doing labour and other good conduct equivalent to the number of marks assigned as his sentence (Barry 1958:74).

The "mark system" eventually developed into a three-stage sentence, where a convict would proceed from a short period of restraint, deprivation, and religious and moral instruction, to being allowed a degree of freedom while performing allotted tasks in order to earn "marks", to joining with 5 or 6 other convicts in the performance of group tasks, each convict responsible and accountable to others in the group (Barry 1958:75). As a prisoner

progressed through the system less and less restraints were imposed. The final period of detention was to be as similar as possible to the conditions likely to be encountered upon release from the penal colony.

As progressive and rehabilitative as Maconochie's implementations appeared, however, free colonists in Australia and its surrounding colonies objected vigorously to the practice of transporting criminals to their homelands (Newman 1968:24; Parker 1975:17). Due to threats of revolt, transportation to Australia was halted in 1867, but not before a form of selection process of criminals was used in an attempt to alleviate some of the criticisms of the system. An eighteen month period of training and discipline was effected in England before transportation was considered. And, although the experiment of selection was a failure, it marked the beginning of the use of trained and experienced individuals who made decisions about the rehabilitative or behavioural potential of incarcerated convicts (Newman 1968:24).

In 1853 the English Penal Servitude Act was passed. It governed convicts in England and Ireland, and substituted imprisonment for transportation (although transportation was still employed in a limited way under the selection process) (Newman 1968:25). In addition, the Act specified the minimum

terms of imprisonment required to be served before prisoners became eligible for a ticket-of-leave (Parker 1975:18).

Reforms to the ticket-of-leave system resulted in special conditions being endorsed on the licence of every convict under the system (Newman 1968:26). An 1862 Royal Commission investigated the ticket-of-leave system, and resulted in the supervision of convicts by the police, a previously non-existent practice (Parker 1975:19). Later a number of Prisoner's Aid Societies were established, with the government's support, to assist in the supervision of convicts on tickets-of-leave.

Modifications were continually being made to the ticket-of-leave systems in Great Britain. In Ireland, Sir William Crofton, head of the Irish prison system, supported the concept of reformation and instituted prison programs toward that end. Additional special conditions were imposed on released convicts, and release under a ticket-of-leave was granted only to prisoners who demonstrated visible evidence of achievement and a positive change of attitude (Parker 1975:19-20).

Sir William Crofton also enhanced the practice of supervision: convicts residing in urban Dublin were supervised by a civilian employee who bore the title "Inspector of Released Prisoners"; ticket-of-leave men

living in rural districts remained supervised entirely by the police (Newman 1968:31). Due to the sensitivity of Irish penal reformers toward criticisms of the penal system, and ongoing efforts made to modify the ticket-of-leave system, Ireland's system attracted the support and confidence of the Irish public (Newman 1968:31).

The effects of the English and Irish penal systems and the concepts instituted earlier in Australia by Maconochie and others were quickly felt in North America. By the mid-19th century America had heard about sentencing boards and there appeared to be widespread acceptance of the use of indeterminate sentences (Newman 1968:34).

In 1876, the Elmira Reformatory in New York was opened; it was there that many current concepts of parole were formulated. In fact the New York Laws of 1887, Chapter 173, was the first parole statute in the United States, and was drafted by Brockway, then superintendent of the Elmira Reformatory. Newman (1968:36) writes that before being considered for parole each inmate was required to have passed through 12 months of good conduct. In addition, the convict was required to have viable plans for employment and, once released, was to report to a supervisor regularly. A parolee was strongly encouraged to remain at his initial work position for approximately six months to attain stability.

The influence of the Irish and English systems of tickets-of-leave soon became evident in Canadian legislation as well. Canada's first parole legislation was the Ticket-of-Leave Act, passed in 1899. The Canadian Act followed, almost word for word, the English Ticket-of-Leave Act in use for about 2 decades prior to 1899 (Fauteux Report 1956:55).

Prior to 1899 prisoners were released early from custody by order of the Governor General upon advice of a Minister of the Crown (usually the Solicitor General) as "an expression of the Royal Prerogative of Mercy" (Collins 1985:14). Release was generally unconditional because staff was not appointed to enforce any conditions (Ottawa 1974:15).

The Ticket-of-Leave Act empowered the Governor General to grant a conditional release to any person serving a term of imprisonment, although two exceptions to the universal applicability of the Act soon developed. In 1913 The Prison and Reformatories Act was amended in response to provincial requests to permit imposition of definite-indeterminate sentences in Ontario. The Ticket of Leave Act continued to apply to the definite portion of these sentences but not to the indeterminate portion. Another modification to the Prison and Reformatories Act in 1916 permitted the creation of the Ontario Parole Board with jurisdiction over the

indeterminate part of the sentence (Ottawa 1974:15). The second exception was made for British Columbia in 1948, when definite-indeterminate sentences were authorized for convicted offenders between the ages of sixteen and twenty-three (Ottawa 1974:16).

The Act in effect made all sentences indeterminate, with the maximum time of incarceration to be served set by the court. Much reliance was placed upon a provision in the Act for monthly reporting by the parolee to the local police. This was a marked shift from pre-Act days, when the lack of organized supervision and Canada's sparsely settled frontiers generally rendered most parole releases unconditional (Miller 1976:380).

Even with the new reporting provisions in the Act, many officials recognized a need for some form of guidance for conditionally released convicts. In this respect, the Prison Gates Section of the Salvation Army undertook to provide assistance in counselling and supervision of released prisoners, as well as helping them find employment (Quimet Report 1969:332).

In 1905, the Department of Justice, created in 1868, endeavoured to develop cohesiveness in its approach to dealing with convicts released from prison prior to sentence expiry. In 1905, Brigadier Archibald of the Salvation Army

was thereby appointed as the first Dominion Parole Officer, whose task it was to oversee the parole program (Miller 1976:380; Quimet Report 1969:332). He was succeeded by two other men until the position was abolished in 1931. The function of the Dominion Parole Office then became absorbed within the reorganized Remissions Service branch of the Department of Justice (Quimet Report 1969:333). Due to criticism for apparently large numbers of tickets-of-leave granted prior to 1924, the Branch became reorganized as the Remissions Service and rules of practice formulated (Fauteux Report 1956:8).

The Remission Service and its officers gained increased responsibilities shortly, as the depression years were accompanied by increased prison populations and tickets-of-leave (Quimet Report 1969:333). The Second World War and the decade following also impacted significantly the practice of controlling conditionally released criminals.

During World War II many prisoners were released to join the armed forces or work in supporting industries under the "special war purposes ticket-of-leave" (Quimet Report 1969:333). During the post-war years, social services in general received considerable financial support and gained public sentiment. Rehabilitation efforts intensified and support services increased. Vocational training, education, counselling, and other efforts aimed at reintegrating

mentally and socially deficient persons expanded (Miller 1976:381). As Miller writes,

"It can easily be seen how these changes in institutional and community services enabled the Remission Service to expand in the field of parole. As the institutions produced better prospects for conditional release and the after-care and probation services offered better facilities for assistance and guidance it was possible to release more persons on ticket-of-leave" (1976:381).

The Remissions Service experienced rapid growth thereafter. By 1957 six regional offices had opened (Quimet Report 1969:333) in order to expeditiously deal with the increase in parolees.

In 1953 the Minister of Justice appointed a committee to investigate the principles and procedures followed in the Remission Service. The outcome of that inquiry, the Fauteux Report, led to changes which ended a 60 year phase in Canadian parole history. One particularly important recommendation of the Fauteux Committee was to establish a national parole board. The Fauteux Report suggested the five person board be a quasi-judicial decision-making body rather than the Minister of the Crown acting exclusively in an administrative capacity (Fauteux Report 1956:80). In 1958 the Parole Act established the National Parole Board, with authority over parole for federal inmates and provincial inmates, other than juveniles, convicted of federal offences. The Act defines the powers and duties of the Board

and establishes procedures for granting, suspending and revoking parole.

Implementation of the above recommendation and others directed at provincial and federal governments (for example, the recommendation to augment funding to voluntary after-care agencies) (Fauteux Report 1956:90) initiated a period of "legislative and institutional reform and expansion without parallel since the first decade of Confederation" (Solicitor General 1981:3).

For instance, in 1959, construction began on minimum and medium security institutions. Prior to 1959 the system consisted of nine maximum security penitentiaries, but by 1962 there were 15 minimum, four medium, and seven maximum security institutions. The following year a "Ten-Year Plan" for penitentiary accomodation was initiated, in which the construction of 10 new institutions of varying sizes and security classifications was proposed (Solicitor General 1981:3).

By March 1987, there were 42 federal institutions in Canada, including 11 minimum security farms and institutions, 16 medium security institutions, and 15 maximum and or multi-level security institutions. In addition to incarceration facilities, 76 district parole offices and sub-offices were located across the country.

In 1966 The Government Organization Act was passed. The Act created the Department of the Solicitor General of Canada, which assumed responsibility for the Royal Canadian Mounted Police, federal penitentiaries, and parole from the Minister of Justice.

Three years later, in 1969, a nationally appointed committee, the Canadian Committee on Corrections ("Ouimet Committee") produced a report detailing its findings. Its mandate was to "study the broad field of corrections...from the initial investigation of an offence through to the final discharge of a prisoner from imprisonment or parole" (Ouimet Report 1969:1). The report presented 118 recommendations aimed at the development of a unified justice system. The Ouimet Committee proposed that the Canadian Penitentiary Service and the National Parole Service be "drawn together administratively under a Director of Corrections" (Ouimet Report 1969:285). In 1972, the Task Force on the Release of Inmates - appointed by the Solicitor General under the chairmanship of Mr. Justice J.K. Hugessen - proposed, among other things, a decentralized but coordinated parole system closely linked to the public, the police and other professional groups in the criminal justice system.

Many other recommendations were presented; among them the proposal that federal parole staff and penitentiary

staff be integrated. [see Hugessen's Task Force on the Release of Inmates - 1972] Two reports, The Role of Federal Corrections in Canada (1977), and The Canadian Corrections Service: Organization and Management (1977), echoed the call for integration and provided a method to implement the process (Solicitor General 1981:20).

Those recommendations have been implemented. In 1977 the National Parole Service (then part of the National Parole Board) and the Canadian Penitentiary Service were integrated into, and are now the main partners in, the Correctional Service of Canada (CSC). The concern of the Ouimet Committee that the enforcement, judicial and correctional processes be rationalized to form a unified and coherent system of criminal justice (Ouimet Report 1969:16, 284) has, at least in part, been realized.

Legislation guiding actions in the CSC, specifically parole, have evolved constantly over the past three decades or so. The Parole Act, first enacted in 1958, has undergone amendments in 1977 and 1986 which have substantially modified the work of parole. A discussion of the Act occurs in Chapter V.

Another important piece of legislation impacting parole is the Penitentiary Act (1960-61). In addition to establishing procedures for the operation of penitentiaries

and formalizing many personnel and inmate procedures, the Act authorized statutory remission and temporary absence programs.

In late 1992, The Corrections and Conditional Release Act was proclaimed into law, having received Royal Assent in June 1992. This Act replaces the Parole Act and the Penitentiary Act. It purportedly strengthens control over violent offenders serving longer sentences, while facilitating the quicker release of offenders who do not pose a physical threat to society, and who are serving shorter sentences. In addition, it makes the correctional decision-making process more open and accountable to the public, and contains provisions encouraging victims' input into the correctional decision-making process.

The Act also formally establishes the Office of the Correctional Investigator, who provides an independent and impartial avenue to investigate complaints lodged by and on behalf of federal offenders in penitentiary or on conditional release.

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